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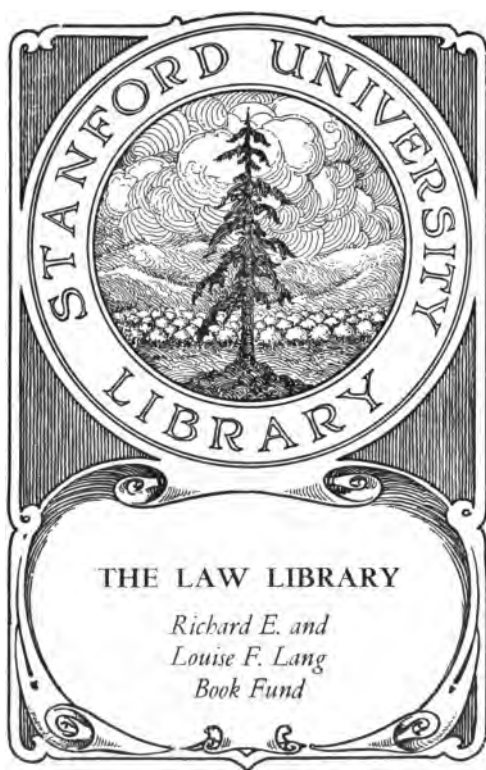
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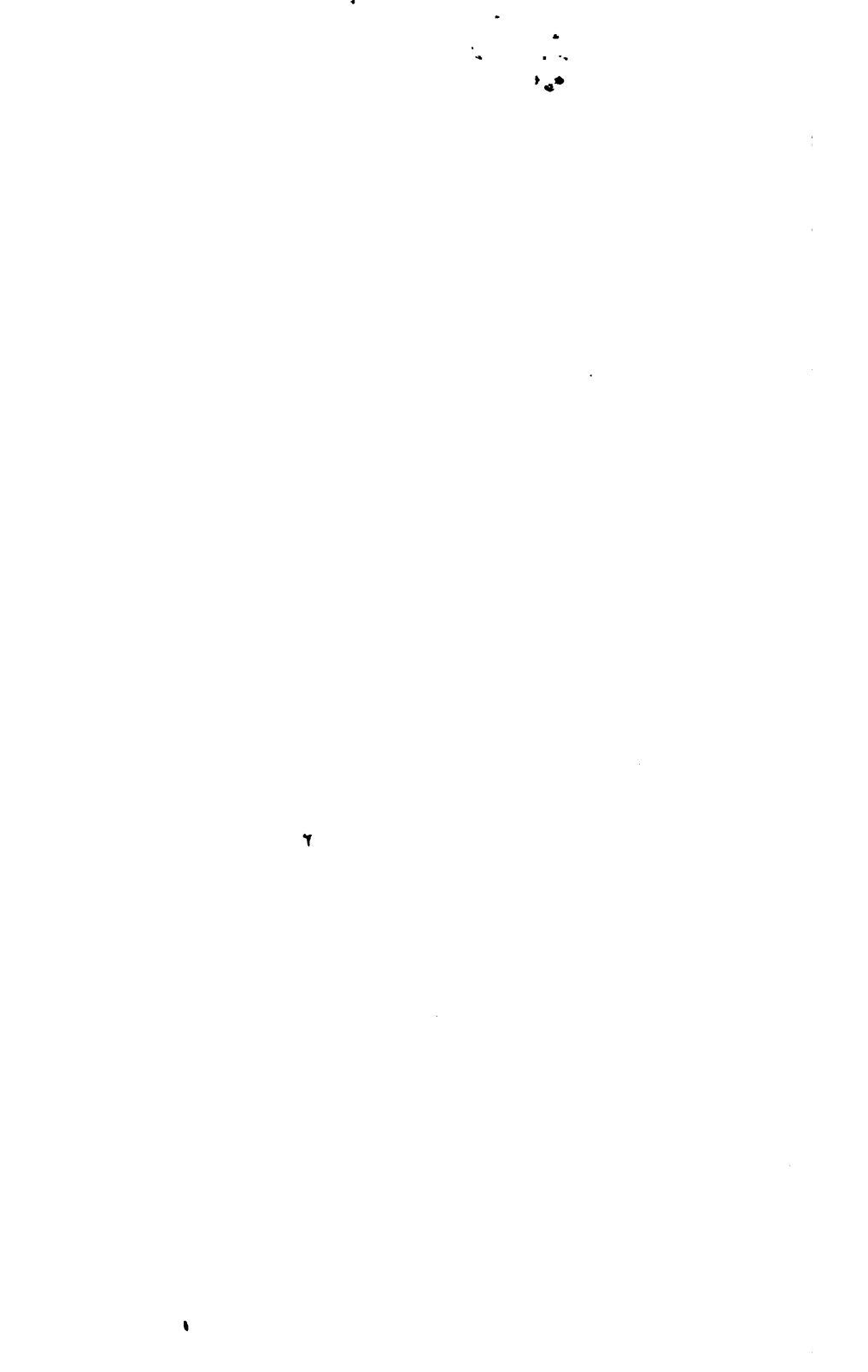




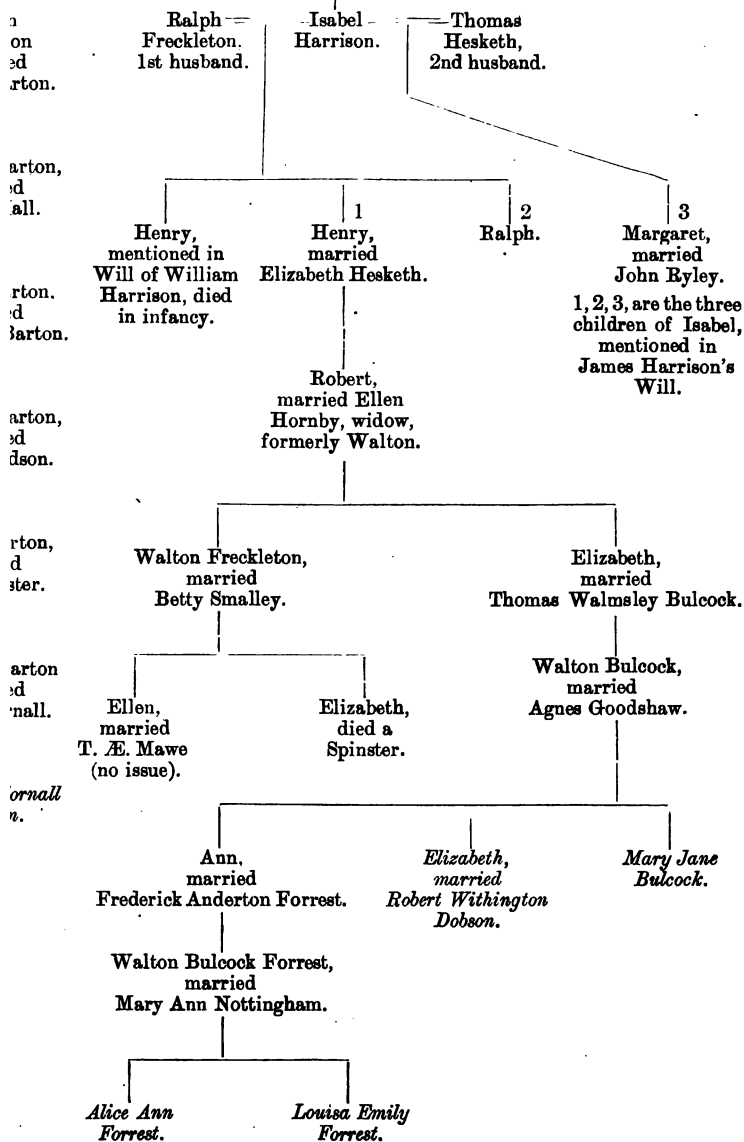
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A  
LANCASHIRE PEDIGREE CASE:

OR  
A HISTORY OF THE VARIOUS TRIALS

FOR THE RECOVERY OF  
THE HARRISON ESTATES,  
FROM 1873 TO 1886;

TOGETHER WITH  
A FULL ACCOUNT OF THE MANY  
FORGERIES AND FRAUDULENT ENTRIES

IN PARISH REGISTERS, MARRIAGE LICENCE BONDS, &c.,  
PUBLICLY EXPOSED AT THE TRIAL AT LIVERPOOL, MAY 25TH TO 28TH, 1886,

WITH  
A PEDIGREE OF THE HARRISON FAMILY.

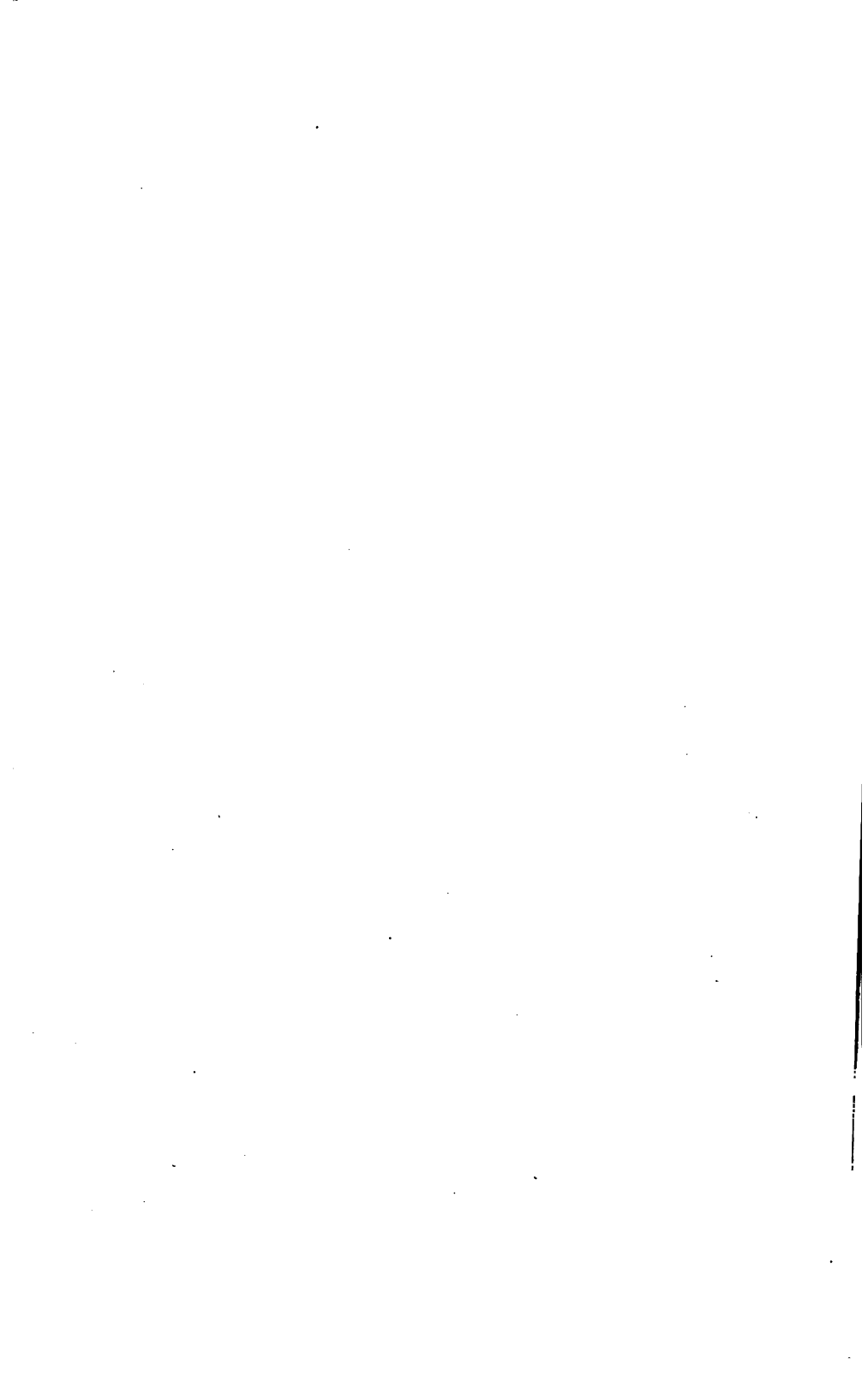
BY  
J. P. EARWAKER, M.A., F.S.A.,

AUTHOR OF "EAST CHESHIRE"; EDITOR OF THE "MANCHESTER COURT LEET RECORDS";  
HON SEC. OF THE RECORD SOCIETY OF LANCASHIRE AND CHESHIRE,  
&c. &c.

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WARRINGTON:  
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1887.





TO  
HIS HONOUR  
HENRY FOX BRISTOWE, Esq., Q.C.,  
VICE-CHANCELLOR OF THE COUNTY PALATINE OF LANCASTER,  
BEFORE WHOM  
THE DECISIVE TRIAL FOR THE HARRISON ESTATES  
WAS HEARD IN THE CHANCERY COURT OF THE COUNTY PALATINE,  
ST. GEORGE'S HALL, LIVERPOOL,  
MAY 25<sup>TH</sup> TO 28<sup>TH</sup>, 1886,  
THIS ACCOUNT OF THAT IMPORTANT TRIAL,  
TOGETHER WITH A HISTORY OF THE PREVIOUS LITIGATION  
IN CONNECTION WITH THESE ESTATES,  
IS  
MOST RESPECTFULLY DEDICATED  
BY  
THE AUTHOR.



## P R E F A C E.

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The following pages contain an account of certain forgeries, as ingenious as they were audacious. Although it is an indictable offence to tamper with entries in Parish Registers, it is only very occasionally that such cases come into the Law Courts, whilst they have not unfrequently been made use of by writers of fiction. In this case, however, not only have numerous entries been altered and erased, but entirely fictitious ones have been inserted, where there were vacant spaces on the pages of the Registers. Again, this has not been done in one Register only, but in at least three or four, and the official " transcripts " or certified copies, returned year by year to the Bishop of Chester, and now preserved in the Registries at Chester and Lancaster, have also been tampered with, and it is feared in some cases ruthlessly destroyed. So extensive have these criminal acts been, that the entries which have been tampered with, or inserted in the Registers of Preston, Kirkham, Poulton and Lytham, as well as on the transcripts

relating to Preston, Kirkham and Penwortham, cannot fall very far short of *fifty* in number. Of the most important of these, an account will be found in the pages of this pamphlet, but there are many others, which are there only very briefly, if at all, referred to. Not content with such wholesale forgeries as these, the author or authors (for there is every reason to believe that two persons, both of whom are now dead, were actively concerned in them) were ingenious enough to forge three Marriage Licence Bonds, and to place them among the genuine Bonds, now preserved in the Bishop's Registries at Chester and Lancaster. If these forged Bonds and Register entries had had reference to modern times, the skill and industry of the forgers would have been noteworthy, but as they had nearly all to be in the handwriting of the seventeenth century, the ingenuity and audacity of these fortune-hunters become very remarkable indeed. I venture to think that there is no case on record in which such wholesale forgeries have been perpetrated, nor where so much time and money have had to be spent in their exposure, and this must in some degree be my apology for this pamphlet, if indeed any is needed.

Much attention has of late years been paid to the preservation of old Manorial Court Rolls, and to show how valuable these may become, it may here be stated that had the Court Rolls of the Manor of Lea, near Preston, not been preserved there is only too much reason to believe that the ingenuity of the forgers would have been rewarded before their forgeries

could have been exposed, and that the Harrison estates would have passed into the hands of those, who were in no wise entitled to them. These Court Rolls were kept in private hands, and so were out of the reach of the forgers, even if they had known how important they really were.

There is abundant evidence to show that those, who were guilty of the nefarious proceedings here described, had a thorough knowledge of the Harrison pedigree, for not only were their efforts directed to prove that the descendants of one person of that name were entitled to the estates, but they did everything in their power to prevent the true heirs-at-law, who have now happily succeeded, from proving their case. So cleverly were their plans laid, that it was only by the fortunate discovery of one document, which had never been referred to at any of the previous trials, that absolute *proof* was obtained of the way the Penwortham transcripts had been tampered with. It was also due to Mr. Jeans' perseverance and genealogical skill that he was enabled to discover the descendants of Ellen and Isabel Harrison, after a lapse of over 200 years, and then by means of the papers found in their possession, and of the Ryley Letters, found amongst the intestate Richard Harrison's deeds, to establish an impregnable case in favour of his clients.

If a moral may be drawn from the above facts, it is that too great attention cannot be paid to the safe preservation and custody of Parish Registers, and that no one should be

allowed access to them, except in the presence of some responsible person. If the clergy are too negligent to do this, then the sooner Mr. Borlase's Bill for the removal of all the Parish Registers to Somerset House becomes law the better. Once there, there will be no opportunities for any one to tamper with them, and such proceedings as those which have given rise to this pamphlet will be absolutely impossible.

J. P. EARWAKER.

Pensarn, Abergele, North Wales,  
January, 1887.

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## CHAPTER I.

### RICHARD HARRISON, THE INTESTATE, HIS ESTATES AND HIS PEDIGREE.

The death of Richard Harrison in 1863—His personalty distributed amongst his next of kin—His real estate in Lancashire taken by the Duchy of Lancaster in 1866, and that in Cheshire by the Crown in 1869—Value of these estates—The rush of would-be claimants—Searches in parish registers, &c.—Richard Harrison's pedigree detailed at length.

ON the 12th September, 1863, there died at his residence, Lovely Lane, Warrington, a certain Mr. Richard Harrison, a bachelor, aged 79 years. He was a man of considerable private means, and the owner of property at Warrington and at Lea, Whittle, Brindle, and Clayton, near Preston, as well as a small estate at Latchford, in Cheshire, a township on the Cheshire side of the River Mersey, nearly opposite to Warrington. He had, to his knowledge, no near relatives, and so, to quote the traditional story told of him, he determined to make no will, but to let those, who claimed any relationship to him, prove their title to his estates at their own cost and trouble. After his death, his deeds and papers were taken possession of by his lawyers, Messrs. Marsh and Barratt, an old and highly respected firm of solicitors at Warrington, to which firm Mr. William Dampier Jeans, whose name will be frequently mentioned in these pages, was shortly afterwards admitted a partner, when the firm became Messrs. Marsh, Barratt, and Jeans. These documents filled several large boxes, and consisted of a

number of deeds, relating to Mr. Harrison's estates and **family**, and a great quantity of old letters and papers of apparently little or no value. No scrap of paper, however, was **destroyed**, and, as will subsequently be shown, one small bundle of old letters, some 23 years later, played an important **part** in deciding the question of the rightful heirs to his property.

As he died intestate (that is, without a will), advertisements were immediately inserted in the London and local **papers** for his heir-at-law and his next of kin. It thus soon became known throughout Lancashire that personal estate of the value of about £100,000, and real estate of the value of £800 per annum, awaited claimants, who could make out their descent from the ancestors of Richard Harrison, the intestate. The name of Harrison being a very common one in North Lancashire, a large number of persons began searching parish registers, and looking up their family pedigrees, with a view of proving their relationship to the particular line of Harrison, to which the late owner of the estates had belonged. When it became known that he was descended from a family of Harrisons, who for several generations had lived at Lea, a township in the parish of Preston, the parish registers of Preston, Kirkham, Poulton, Bispham, Lytham, &c., all places in the neighbourhood of Preston, and all north of the Ribble, were very assiduously searched by the numerous claimants. So common is the name of Harrison in that part of Lancashire, that in an affidavit sworn in 1879, it is stated that "the extracts taken from the parochial registers of Kirkham and Preston, of entries of the baptism, marriage, and burial of persons named Harrison between 1582 and 1753, comprised nearly thirteen brief sheets, and most of the entries occupy one line only." Taking 35 lines to each brief sheet, this gives about 450 Harrison entries in 170 years from two parish registers only!

The intestate's personal estate, consisting of money, stocks, railway shares, &c., had to be divided amongst his next of kin, and in 1864 a suit, *Hargreaves v. Hargreaves*, was instituted in the High Court of Chancery to determine who the next of kin really were. In the course of this suit the usual inquiries were made and advertisements issued for the next of kin, with the result that it was shown that Richard Hargreaves, James Hargreaves, and William Hargreaves, his second cousins, were the sole next of kin, and his personalty was accordingly distributed amongst them.

With regard to his real estate, (that is, his landed property) in Lancashire and Cheshire, which, as is well known, stands upon a different footing in law to personalty, it became necessary to ascertain who was or were entitled to it as his heir or heirs at law. As no one appeared to be in a position to do this satisfactorily, and as the estates required supervision and care taken of them, what is called a "Commission of Escheat," or a commission of inquiry, was issued by the Duchy of Lancaster in the year 1866, which was heard at Manchester on December 3rd, in that year. An inquisition or inquest was then found by the jury to the effect that Richard Harrison had died intestate, without any *known* heir, and possession of his estates in Lancashire, and of his title deeds thereto, was taken on behalf of the Queen, in right of her Duchy of Lancaster. Some three years later a similar Commission of Escheat was issued by Her Majesty's Treasury, and at the hearing of this commission at Chester on the 9th August, 1869, a similar verdict was returned, and the estate at Latchford in Cheshire was taken possession of on behalf of the Queen. In both cases, the Queen held these estates only till the right heir or heirs could prove his or their title to them, and with a view of seeing that they were properly cared for, the rents collected, &c.

The descent of the intestate Richard Harrison, of Warrington, was as follows : —

I. John Harrison, of Lea, who died in 1667, by his wife Margery (said to have been Margery Brown), who was buried at Preston, 24th May, 1672, had five sons and two daughters, who lived to maturity, and who are duly referred to in *their* parents' wills, that of John Harrison, dated 18th October, 1667, and that of Margery Harrison, dated 23rd May, 1672.

John, his son and heir, called John Harrison the second, of whom see presently.

Richard, William, James, Laurence, Ellen, and Isabel.

Of these children it is clear from their wills and from other records, that Richard, William, and James died unmarried, or if married, without issue. Laurence was married and had issue, but, as will be subsequently shown, in one of the many trials in connection with this estate, the decision arrived at was that his only children, Ellen and Margery, were illegitimate, having been born before marriage. There only remained, therefore, the two daughters, Ellen and Isabel, and for many years it was thought that at this distance of time, over 200 years having elapsed, it would not be possible to trace out their descendants. It is only quite recently that this has been attempted, with the result, as will subsequently appear, that in their direct descendants the true heirs to the Harrison estates have at last been found.

II. John Harrison, of Lea, the second of that name, (the son and heir of John Harrison and Margery), appears to have

been twice married, his second wife to whom he was married at Preston, 20th February, 1671-[2],\* being a certain Ann Procter, † the widow of another John Harrison, known as "John Harrison, of Newton-cum-Scales." He had an only son and heir, *John Harrison*, (called John Harrison the third), and in some of the trials relating to the Harrison estates, the whole question turned upon the point, whether this John, his undoubted son and heir, was or was not the son of his *second* wife, Anne Procter. The conflicting evidence on this point will be gone into more at length hereafter. (See pp. 16-25.)

III. John Harrison, of Lea, the third of that name, the son and heir of his father, was born about the year 1672, and married in 1700, Elizabeth Walmsley, from whom he separated within a year and a half of his marriage to her. They lived apart for nine years, and at last, owing to the intervention of their relations and friends, they came together again. It is one of the most remarkable incidents in connection with these estates, that a bundle of old letters, addressed to this John and Elizabeth Harrison, by a certain John Ryley, and therefore known as the "Ryley Letters," had been carefully preserved, and were found in the possession of Richard Harrison, the intestate, and proved of much value in showing the connection of the descendants of Isabel Harrison (the youngest daughter of John and Margery) with the elder line of that family. In these letters, John Ryley urged upon them to become friends

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\* This marriage entry runs thus :—

1671. February. John Harrison of Lea, and Anne Harrison of the same both Widd married the 20th day.

† She was married to her first husband in 1652, the marriage settlement being dated 2nd June, 1652. John Harrison, of Newton-cum-Scales, died in 1660.

and to live together again, and in one of them he shows how, by his marriage with Isabel Harrison's daughter (by her second marriage), he was entitled to address John Harrison and Elizabeth, his wife, as cousins. John Harrison and Elizabeth, his wife, had three children :—

John Harrison, his son and heir, who married Thomasine Bennett, and had issue, John, Elizabeth, John, who all died young and without issue.

Margaret Harrison, who died unmarried, and James Harrison, the youngest son.

IV. James Harrison married Ann Richardson (the daughter of John Richardson and Ellen Torbock, of Torbock, near Liverpool). He was born about the year 1721, and resided for some years at Torbock, but removed to Warrington in the year 1760, where he died in 1785, having had issue eight children :—

Ellen, Elizabeth, *John*, James, Sarah, Thomas, Richard, and Samuel. All of these children, with the single exception of *John Harrison*, died without having been married.

V. John Harrison, of Warrington, was born about the year 1749, and died in 1786. By his wife, Rachael Hall, he had seven children :—

James, Margaret, Ann, John, Thomas, *Richard*, and Ellen, who all died unmarried, Richard, the intestate, being the survivor.

VI. Richard Harrison, of Warrington, the intestate, was born in August, 1784, and died on the 12th September, 1863, without having made any will, and leaving his heir-at-law to prove his title, as already described.

Such is a brief outline of the descent of the intestate, Richard Harrison, from his earliest known ancestors, John and Margery Harrison. Each step in this pedigree has been carefully worked out, and is supported by documentary evidence. It has been the aim of many claimants to seek to introduce other names into this pedigree, or to claim descent from some of the children here stated to have died unmarried, or without issue. If these statements, however, are inquired into by anyone at all skilled in genealogy, it will be found that confusion has arisen between persons of the same name, who were living at the same time. Thus a claimant might be descended from a James Harrison, living in the middle of the last century, who had a wife Ann, but these persons, he would be unable to prove to be identical with the James Harrison, of Warrington, who married Ann Richardson. In point of fact, these being both common names, there might easily have been half-a-dozen James and Ann Harrisons living at the same time in various parts of Lancashire. In every question of pedigree, as is well known to genealogists, one of the greatest difficulties is the proving the *identity* of persons of the same name with those belonging to any particular line, and it is in such cases as these that old family deeds and documents become of such inestimable value.

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## CHAPTER II.

### THE TRIALS FOR THE HARRISON ESTATES, 1873 TO 1884.

Porter and Nickson's case dismissed—Mrs. Crossfield's case dismissed—The case of William Horner as opposed to that of Mrs. Slagg—The first victory of Horner before the Master of the Rolls—The second victory of Horner before Mr. Justice Chitty—The first victory of Mrs. Slagg in the Court of Appeal; and the final triumph of Mrs. Slagg in the House of Lords.

WHEN the Commission of Escheat, before referred to, was held at Manchester, on the 3rd December, 1866, several claimants to the Harrison Estates appeared before the Commissioners, but at the suggestion of the latter, no evidence was then taken, as it was stated, that by submitting to a verdict in favour of the Duchy of Lancaster, such claims could be investigated at less cost than by taking proceedings in ejectment against the tenants. Amongst the claimants, whose statements of claim were submitted to the Duchy, were two persons named Porter and Nickson, who claimed as descendants of Ellen and Margery, the only two children of Laurence Harrison (the fifth son of John and Margery Harrison) by his wife, Frances Maudsley. This claim the Duchy ultimately rejected, and the claimants were forced "to traverse the inquisition," as it is legally termed, that is to apply for the inquisition to be set aside, conditionally on their proving themselves to be the right heirs to the estates. The trial of this traverse came before Mr. Justice Denman and a jury, on the 24th June, 1873. The counsel for the plaintiffs were Mr. Farrer Herschell, Q.C. (now Lord Herschell, the late Lord Chancellor), Mr. Baylis, and

Mr. Watters; and for the Duchy, the Attorney-General of the Duchy (Mr. H. W. West, Q.C.), and Mr. W. B. Trevelyan.

After the evidence for the plaintiffs had been nearly completed, the Attorney-General for the Duchy produced a certificate, dated in 1866, under the hand of the Vicar of Kirkham, of an entry in the parish register of Kirkham, dated 21st March, 1685-6, as follows:—

“ Baptisms, March, 1685.

21. B.—Ellin and Margery fil ffances Maudesley de Ingol  
spin<sup>r</sup>.

This entry took the plaintiffs by surprise, as they alleged that the register had been most carefully searched, and the Attorney-General of the Duchy admitted that he had not previously heard of it. It was, in fact, produced by an adverse claimant, who till then had withheld all knowledge of it from the Duchy. If this entry was a genuine one, it of necessity defeated the plaintiffs' claim, as it showed that the two daughters, Ellen and Margery, (named in Laurence Harrison's will, dated 26th January, 1709-10, and in that of his wife, Frances, dated 6th February, 1709-10, as their children) were *illegitimate*, being the children of Frances Maudsley, prior to her marriage. The plaintiffs were therefore compelled to withdraw the case from the jury and to submit to the decision of an arbitrator.

A short time afterwards the arbitrator, Mr. Edwards, Q.C., commenced his sitting, and the case lasted quite three weeks, during which time a large number of persons had to be in attendance, producing parish registers, wills, and other documents, the cost of which, together with the fees to the arbitrator, and to the counsel employed, amounted to a very large sum. The plaintiffs submitted that this particular entry was not a genuine one, that it was written upon an

erasure, and that the entries for several lines, both above and below, had been touched up with a different coloured ink to that of the other entries in the register. They also alleged that the entry in the transcript, or official copy of this register, sent at the time to the Archdeacon of Richmond, acting for the Bishop of Chester, and now preserved at Lancaster, had also been tampered with, and that there, similarly, the whole or the greater portion of the entry was written upon an erasure, and that the entries, above and below, were touched up with a different coloured ink to the other entries on the same sheet. They called Mr. Edward Peacock, F.S.A., a well known antiquary, and Mr. W. H. Turner, of the MS. department of the Bodleian Library, who gave it as their opinion that the handwriting of this entry, both in the original register and in the transcript, was not the same as that of the adjacent entries, and that it was modern, and an imitation of the old hand-writing of that period. They also stated that the word "spinster" could not be found in any entry in the Kirkham Registers, and that illegitimacy was invariably denoted by the letter B (for Bastard) prefixed to the entry, and that although there was the letter B prefixed to the entry in question, yet that it was a different style of letter to the other B's in the Register at that period. It was also stated that the plaintiffs had made careful search for the entry of the marriage of Laurence Harrison and Frances Maudsley, and for the baptisms of their two daughters, and had offered a reward for such entries, but no trace of them was forthcoming until this entry of illegitimacy was produced.

It also became necessary for the plaintiffs to show that Richard, William, and James, the elder brothers of Laurence Harrison, had died without issue. This was admitted in the case of William and James, but as regards Richard, through

whom another person claimed, a marriage licence bond dated 11th October, 1671, was produced, being the bond purporting to have been given for the marriage, by licence, of Richard Harrison, of Lea, and Ellen Fletcher, of Westby, and it was alleged that this Richard Harrison, in consequence of marrying an heiress of Westby, went to reside at Westby, and that he was identical with Richard, the second son of John and Margery Harrison, the elder brother of Laurence. This marriage licence bond was produced from the Registry at Lancaster, and two other similar bonds dated 8th January, 1672-3, were produced from the Episcopal Registry at Chester, in one of which William Harrison, of Lea, and Richard Harrison, his brother (*ejus frater*) were the bondsmen. The plaintiffs affirmed that these three bonds were not genuine documents, and Mr. Peacock and Mr. Turner gave evidence, on oath, that in their opinion they were written in a hand imitating the handwriting of that period; that the contractions and accentuations were such as were not in common use at that time; that the signatures were all written by one hand, and that the signature of Richard Clegge, Vicar of Kirkham, did not agree with his genuine signatures, many of which were known. The plaintiffs also alleged that Richard Harrison (the second son of John and Margery) died in 1670 without issue.

On the other hand it was affirmed the bonds were genuine, and that the entry of the baptism of the two illegitimate daughters of Frances Maudsley was also genuine, and that, if it had been tampered with at all, it had merely been that a previous entry, which was faint, had been touched up at some subsequent period, and possibly with the very view of giving it a suspicious appearance, so that it might not be received in evidence. The Duchy of Lancaster produced two gentlemen of antiquarian knowledge, Mr. Hardy of the Public Record

Office, and Mr. Hewlett, F.S.A., who both gave evidence, upon oath, as to the genuineness of these three marriage licence bonds, and the entry in the Kirkham register. Finally the Arbitrator decided that the bonds and the entry in question were genuine, and so the claim of Porter and Nickson was dismissed.

The next claimant was Mrs. Eliza Crossfield,\* who claimed to be descended from Richard Harrison, the second son of John and Margery. The enquiry was held in the first instance in the chambers of the Chief Clerk of the Master of the Rolls, (John W. Hawkins, Esq.), and the evidence in support of her claim, and in opposition to it, was given by affidavits, and the documents relied upon were also exhibited. The Chief Clerk ultimately decided against and disallowed this claim, whereupon Mrs. Crossfield brought the case before the then Master of the Rolls, the late Sir George Jessel, on a summons to vary the Chief Clerk's certificate. This appeal was argued in court, and the Master of the Rolls confirmed the Chief Clerk's certificate disallowing the claim, and so that case ended. In support of Mrs. Crossfield's claim, the three marriage licence bonds played a very important part, as from them it appeared (if their genuineness was accepted or proved) that Richard Harrison of Westby, the brother of William Harrison of Lea, (see bond dated 8th January, 1672-3) had a licence to marry Ellen Fletcher of Westby, dated 11th October, 1671. This marriage was found duly recorded in the Kirkham register under date 12th October, 1671, and this entry is undoubtedly a genuine one.

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\* In point of fact Mrs. Crossfield's claim, although it was put forward shortly after the intestate's death, was not proceeded with until after William Horner had filed his Petition of Right, but as it was the first to be gone into of all the other claimants, who appeared as against Horner, it seems better to give an account of it here, so as not to cause any confusion when treating of Mrs. Slagg's case.

In considering this claim, whilst the marriage of a certain Richard Harrison, and Ellen Fletcher of Westby in 1671, was admitted as having taken place, and Mrs. Crossfield was acknowledged to be the direct descendant of this marriage, it is obvious that everything turned upon showing the identity of this Richard Harrison of Westby, with Richard Harrison of Lea, the second son of John and Margery. This Mrs. Crossfield relied upon proving by means of two of the three marriage licence bonds, already referred to, one of which was for the marriage of Richard Harrison, of Westby, to Ellen Fletcher, and in the other William Harrison, of Lea, and Richard Harrison, of Westby his brother (*ejus frater*) are mentioned. The signatures of the two Richard Harrisons to these bonds are as far as possible (he only making his mark R) identical, showing that the writers were one, and the same person, and therefore that Richard Harrison, of Westby was the brother of William Harrison, of Lea. In opposition to this, however, the Court Rolls of the Manor of Lea were produced (from the custody of the solicitors of Sir Charles De Hoghton, Bart., the Lord of the Manor of Lea), and the evidence there given was clearly unanswerable. In the will of John Harrison, of Lea, dated 18th October, 1667, he makes the following bequest to his son Richard:—

“Item whereas I have and doe hould by one Indenture  
 “of Lease under the hand and seale of Sr Richard  
 “Hoghton three Croftes heretofore called by the name  
 “of Darginson Croftes under the rent and Boones to be  
 “paid for the same as the said Indenture of lease  
 “witnesseth w<sub>ch</sub> three croftes or p<sup>c</sup>els of Ground with  
 “the Indenture of lease of the same I give and bequeath  
 “to Rich. Harison my son, and his Issue male dureing  
 “the Term of the foresaid Indenture of Lease, and for

“default of Ric. Harison, and Issue male to Will<sup>m</sup>  
 “Harison my son in maner and form aforesaid.”

In the Court Rolls of the Manor of Lea, in the record of the Court, held the 3rd May 1671, is this entry:—

“Whereas there is three Crofts in Lea called by the  
 “name of Darginson Crofts w<sup>ch</sup> were in y<sup>e</sup> possession of  
 “Richard Harison deceased And there is now no one  
 “entered tenant for them. And we doe believe y<sup>t</sup>  
 “William Harison is the right owner of y<sup>e</sup> said Crofts  
 “therefore we doe ord<sup>r</sup> y<sup>e</sup> s<sup>d</sup> W<sup>m</sup> to come & ent<sup>r</sup> him-  
 “selfe tenant & to doe suit & service for the same.”

Hence it is clear from this entry that the Richard Harrison, the tenant of Darginson Crofts, was dead before May 1671, and as those very Crofts had been devised by John Harrison, of Lea, to his son Richard, with reversion to the latter's brother William, in 1667, it is also obvious that the Richard Harrison whose death took place before May 1671\* was Richard Harrison of Lea. He clearly also died without male issue, as his brother William succeeded. Hence it follows that the Richard Harrison of Westby, married 12th October, 1671, to

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\* The entry of his burial occurs in the Preston Registers as follows:—

1670 [*i.e.* 1670-1] January. Richard son of Widd<sup>er</sup> Harrison of Lea, y<sup>e</sup> 27<sup>th</sup> day.

Letters of administration of his effects, as those of “Richard Harrison of Lea deceased” were granted 21st March 1670 [-71] to John Harrison his brother. It is also noteworthy that his mother in her will, dated 1672, alludes to all his brothers and sisters except him, as he was then dead.

In one of the trials it was suggested that Widd<sup>er</sup> in the above entry was not meant for “Widow” but for “Widdower,” so that in that case this was not the individual he was stated to be, but was Richard the son of a “Widower Harrison,” an entry I believe impossible to be paralleled from any other Register. It is almost certain that the word “Widd” has been altered into “Widd<sup>er</sup>” with the very view of preventing the identification of the Richard Harrison, there buried, with Richard Harrison of Lea, whose mother was then living a widow, and who would be rightly described as “Richard son of Widow Harrison.”

Ellen Fletcher could not by any possibility be identified with Richard Harrison of Lea, (who had died several months before) and so Mrs. Crossfield's claim to be descended from the Harrisons of Lea fell to the ground.

After the two trials above described, it became clear that of the issue of John and Margery Harrison, Richard, William, and James, had died unmarried or without issue, and that the children of Laurence were illegitimate. It was also considered that the descendants of Ellen and Isabel Harrison, the two daughters of John and Margery, could not at this distance of time, 200 years, be traced, and accordingly it became necessary to seek the heirs-at-law to Richard Harrison, from amongst the relatives or descendants of his *female* ancestors. James Harrison, his grandfather, married, as already shown Ann Richardson. She had a sister Sarah Richardson, who married Richard Horner, and their great grandson *William Horner*, was the next claimant who presented himself. Before his trial came on, *Mrs. Slagg* (formerly Miss Catherine Parker German) the wife of John Slagg, Esq., of Manchester, for some years M.P. for that city, claimed to be (on the death of her brother Mr. Henry Parker German on the 4th August, 1874) the direct descendant and representative of a certain John Harrison of Newton-cum-Scales, the first husband of Ann Procter, whose second husband was the before-mentioned John Harrison, of Lea, (called in the pedigree of that family, see p. 4, John Harrison the second). If this descent could be proved, as Mrs. Slagg represented a more remote female ancestor, her claim would take precedence of Horner's. It was also necessary for her to prove that John Harrison, of Lea, the third of that name (who married Elizabeth Walmsley), was the legitimate son of John Harrison the second, by Anne Procter his second wife, and not his son by his first wife, whoever she may have been.



Horner presented his Petition of Right on the 15th March, 1877, and it was heard on the 16th November, 1877, before the then Master of the Rolls, Sir George Jessel, who made an order that enquiry should be made as to whether he was the heir-at-law of Richard Harrison, the intestate, or not. This inquiry took place in the Chambers of the Master of the Rolls, and Horner proved his pedigree, showing that he was the great-great grandson of John Richardson, who was the father of the intestate's paternal grandmother, Ann Harrison, and thereupon the Chief Clerk of the Master of the Rolls, in December, 1878, prepared his certificate that the appellant was the heir-at-law of Richard Harrison, the intestate. But before this certificate was approved by the Master of the Rolls, an application was made by the Crown to admit other claimants, and this was granted by an order dated 16th January, 1879. Under this order the first claimant, whose case was gone into, was Mrs. Crossfield, with the result already stated, her claim being rejected by the Chief Clerk on the 25th February, 1880, and the Chief Clerk's certificate being confirmed by the Master of the Rolls, on the 27th of July, 1880.

Mrs. Slagg's claim was next considered. As already stated it was necessary for her to prove that the John Harrison (the third of that name), who married Elizabeth Walmsley in the year 1700, was the legitimate son of Ann Harrison, formerly Ann Procter, spinster, by her second husband John Harrison, of Lea, whom she married on the 20th of February, 1671-2, she being then the widow of John Harrison, of Newton-cum-Scales. (See the pedigree). After hearing the evidence the Chief Clerk was of opinion that Mrs. Slagg had failed to prove her case, and he was prepared to make a certificate to that effect, but she appealed to the Master of the Rolls, who heard the case on the 16th May, 1881. The Master of the

Rolls agreed with his Chief Clerk, whereupon the latter made his certificate dated 25th July, 1881, certifying that she had not proved her claim to be heiress-at-law to the intestate Richard Harrison. With a view to a further appeal, Mrs. Slagg took out a summons to vary this certificate, and by an order made by Mr. Justice Chitty on the hearing of such summons, dated the 17th November, 1881, it was stated that the Judge required no further argument in the case, and that the costs of the application were to be borne by Mrs. Slagg.

The case then came before the Court of Appeal, consisting of the Lords Justices Lindley, Baggallay and Holker, who on the 16th May, 1882, made an order that in their opinion Mrs. Slagg *had* proved that John Harrison, the husband of Elizabeth Walmsley, was the legitimate son of John Harrison, of Lea, by Ann his wife, (formerly Ann Harrison, widow, and previously Ann Procter, spinster), and therefore directed the said order, dated 17th November, 1881 to be discharged. This decision was appealed against on behalf of William Horner, and the appeal was heard in June, 1885, before the House of Lords, who upheld the decision of the Court of Appeal. By this decision Mrs. Slagg's claim was admittedly proved, and as she claimed through a more remote female paternal ancestor than Horner, her claim superseded his.

The evidence adduced on the behalf of Mrs. Slagg, and the entirely opposite views taken of that evidence by Sir George Jessel, the Master of the Rolls, one of the ablest lawyers who ever adorned the English Bench, and by the Lords Justices Lindley, Baggallay, and Holker, are some of the most extraordinary points in this most complicated case, and so merit very careful attention.

Ann Procter, the eldest daughter of Christopher Procter, of Lea, was baptized 12th September, 1627, and was married to John Harrison, of Newton-cum-Scales, her first husband, in

1652, the settlement on that marriage being dated 2nd June, 1652. The issue of that marriage were three daughters and no son, and the husband died in 1660. Her second marriage to John Harrison, of Lea, took place at Preston, on the 20th February, 1671-2, and the John Harrison alleged to be her son, is said to have been baptized at Preston, 4th August, 1672, as "John, son of John Harrison, of Lea," less than six months after that marriage, she being then 45 years of age and not having given birth to a child for more than eleven years. Two settlements prior to her second marriage, dated the 18th and 19th August, 1671, (about six months prior to the marriage) were found amongst the intestate's papers, but in neither of these deeds is any provision made for the issue of the marriage, and no property was thereby settled, or agreed to be settled, by the husband. The said Ann Procter also made two wills, dated respectively the 13th April, and the 9th July, 1672, and although then, according to Mrs. Slagg's case, she was either then the mother or about to become the mother of the John Harrison, baptized on the 4th August, 1672, in neither of those wills is there any reference to her child just born, or about to be born, either by way of provision for him or by way of explanation of there being no provision there made for him. Also in the articles of agreement prior to the marriage settlement of this John Harrison, the son, with Elizabeth Walmsley, dated 2nd November, 1700; he is described as son and heir apparent of John Harrison, the father, and the wife of the said John Harrison, the father, is simply styled "Anne his now wife" and not as the mother of John Harrison, the son. A deed dated the 3rd August, 1728, found amongst the intestate's papers, was also produced, in which deed the three daughters of Ann Harrison, by her first husband, are described as her "co-heirs," which it is stated would not be a correct designation, if she had had a

son by her second husband. In the will of Margery Harrison (the widow of John Harrison, the first of that name) dated 23rd May, 1672, is the following bequest:—"To the young one in the womb of Ann, the wife of John, my son, two shillings," but this bequest is *interlined* and appears to have been inserted *after* the will was made, and to be in a different handwriting to that in which the will is written. At the end of the will are the following words:—"I desire John Harrison, my eldest son, to assist my said executor," which leads strongly to the conclusion that when the will was written, this was the first time the testatrix had mentioned her son John, as otherwise she would have spoken of him as "my said son John."

On the other hand there is a draft of a deed, dated 15th October, 1675, to which John Harrison of Lea and Anne, his wife, were parties, in which there is a reference to "John Harrison sonne and heire apparent of y<sup>e</sup> s<sup>d</sup> John Harrison and Anne, his wife, or such other sonne or heire of y<sup>e</sup> s<sup>d</sup> John Harrison upon y<sup>e</sup> body of y<sup>e</sup> s<sup>d</sup> Anne, his wife, lawfully begotten or to bee begotten." This document was found among the intestate's papers, but it was held not to be admissible as evidence, but, if it is genuine, it appears to settle the question of the maternity of John Harrison, the third of that name.

Such being the evidence, it is most interesting to note how it was viewed by the Master of the Rolls and the Lords Justices of Appeal respectively.

The Master of the Rolls said:—

....."The deed [dated 3 August, 1728] is as good evidence as you can have of pedigree, for it is pedigree accompanying title. It states that the three girls in question, were the three daughters and co-heiresses of Ann Procter, who married John Harrison, and it traces the descent

of the three persons, who sell, from the three daughters. It also recites that John Harrison, the second husband of Ann Procter, had a son, John Harrison, who had recently died, having been in possession of the property and then it bars estates tail, which possibly arise under the equitable title..... Now that deed would be only consistent with one state of the facts, and that is that the Ann in question, formerly Ann Procter, was not the mother of John Harrison, the son, but that John Harrison, the son, was son and heir of his father, because he was the son by the prior marriage, assuming that the father had been married before, a fact which is admitted, for when he is married he is described as a 'widower.' Therefore we have this, that the persons who drew that deed thoroughly understood and must have understood (it is a most complete legal document) that the three daughters could not have been co-heiresses if that lady had left a son by her husband. That son, as I said before, is described as the heir of the husband and not as the heir of the wife. That is complete, and both parties claim under it, and if there is nothing to contradict it, the persons claiming under John Harrison, the son [as the son of Anne Procter], cannot be entitled to this estate.

"Now, what does it all come to (I will state in a moment what the evidence is). This is the story I am asked to believe. Ann Procter was left a widow in 1660, with three daughters, that Ann Procter, when of the ripe age of 44, was married again, after something like a dozen years' widowhood, to John Harrison, the second John Harrison of Lea, that she was married on the 20th February, and on the 19th February,\* there are articles of settlement, by which she, evidently, having considerable property, agrees to give her future husband two fields only, reserving all the rest of her property to be

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\* This document originally bore date 19th August, but August was subsequently altered to February.

at her own disposal. There had been at the end of the previous year a conveyance which seems never to have been perfected by delivery of seisin, and which shews that the marriage was then contemplated. Some months after the marriage, in August, there is a baptism of John Harrison, son of John Harrison, and this is remarkable that the mother's name is not mentioned. I do not say it does not often happen, it does very often happen, that the mother's name is not mentioned. The son baptized is only baptized as the son of John Harrison. If it had been the son of Ann as well as John, that son must have been conceived before the marriage. Therefore, I am asked to assume two things. First of all I am asked to assume that this widow of about a dozen years' standing, at the age of 44, committed herself, before marriage with her second husband, in the way I have mentioned. Considering her class of life and so on, it does not appear to me that I ought to assume anything of the kind, without very cogent evidence. In the next place, I am asked to assume that a woman 44 years of age had a child at once. That is not impossible. But again it is not very likely. The number of women in their forty-fifth year who have children is very small indeed, and therefore that again is an improbable circumstance. Both things are improbable. As I said before, there is the baptismal certificate, which does not mention her at all. On the other hand, we have a statement by the father that the son is his "son and heir," which shews him to be the legitimate son. We have no evidence of the date of the father's first marriage,\* nor of the death of his wife, nor of the birth of his child or children, nothing at all which helps us in that way, and nothing in the world to show how old the boy was when he was baptized in the year 1672. Now there is this to be said, that he lived till 1725, and therefore, if he was very

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\* See note on page 58.

young at that time, it is not irreconcilable with the facts which are proved.

"That being the story there is this adduced in favour of it, which is exceedingly improbable. It is said that there is a will of one Margery Harrison, who is said to have been the mother of the second John Harrison, that is the second husband of Ann Procter, and that this Margery Harrison left a legacy of 2s., "to the young one in the womb of Ann the wife of my son John." All I can say is that it is a most remarkable legacy, and it is a legacy of a kind which I never heard of before. For what purpose she should leave a legacy, to a child in the womb, of 2s., is not intelligible. But when I called for the original document, as I always do, if it exists, I found that this remarkable legacy was inserted in the will between two lines with a caret, and to my mind it also appeared to be inserted in a different handwriting from that, in which the body of the will is written. There is internal evidence on the will itself, that it was written after the rest of the will, for the last part of the will calls this very John her 'eldest son,' 'John my eldest son' evidently therefore describing him for the first time, whereas if this had been written before, of course it would have been 'my said son John.' It is clear therefore that this insertion was made after the rest of the will was written. By whom or under what circumstances I do not know, but I should be refraining from what I think is my duty if I hesitated to state my opinion, that that is not a genuine legacy. That is my opinion and I ought to state it frankly at once. At the same time I utterly disclaim the notion that I attribute anything like foul play to the very respectable solicitors, who instruct Mr. Ince. I think I ought to say that in justice to them and everybody, who has had anything to do with the case. How it got to be in or when it got in, and under what circumstances I cannot state. As regards the

apparent antiquity of it, I have no faith whatever in that. I know that old writing can be imitated and that old ink can be imitated and the whole thing done so neatly that it would deceive the most experienced persons, and I must say that I rely as much, if not more on the internal evidence as I do on the position of the writing and the mode of insertion. That is my deliberate opinion, and I think it right to express it.

"Then besides that there is a draft [15 October, 1675] produced. In my opinion that is not admissible in evidence. I do not like that draft either. There are various things upon that also, but it is not admissible in evidence, and I will say no more than that I do not admit it.

"Therefore I am of opinion that the claimant fails to make out that John Harrison, the son, who appears to me to have been the legitimate son of John Harrison, the second, who married Ann [Procter], was the son of that Ann, and therefore he fails in establishing his claim.

"I must say it is some satisfaction to me that my Chief Clerk, Mr. Hawkins, who has had great experience in matters of pedigree, has, I find, come to the same conclusion. I need not say that I should not have been led by that, one way, or the other, before I came to my own conclusion."

Lord Justice Lindley in delivering judgment on the 16th May, 1882, said that Lord Justice Baggallay, Lord Justice Holker, and himself, all agreed in the decision he was about to announce. He reviewed the evidence as to the marriage of John Harrison and Ann Procter, and the birth of John Harrison the younger, and with regard to the will of Margery Harrison, and the deed of 1728 he said as follows:—

"The will of Margery Harrison dated the 23rd May, 1672, which, for reasons given in the course of the argument, the Court held admissible in evidence, shows that Ann the wife of John Harrison, of Lea, was then in the family way. By this



will Margery, who was the mother of John Harrison, of Lea, bequeathed a legacy of 2s. for the young one in the womb of his wife. It is true this bequest is interlined, and there is no evidence to show whether it was inserted before or after the will was made, and the presumption therefore would be that it was made afterwards. But there is no presumption that it was a forgery, or made by any person other than the testatrix, or by her directions, and whether the legacy be valid or invalid, the bequest is in our opinion admissible in evidence as a declaration, by Margery, to the effect that her son's wife was then *enceinte* and was sufficiently near her confinement to suggest a bequest to the child she might have.

“This deed of 1728 is the great difficulty in the way of the present claimants. We are of opinion that it does not technically estop them from denying the accuracy of the description of the three daughters, for as the Crown is not estopped by the deed, neither are the claimants. At the same time this deed is naturally strongly relied upon as fatal to the claim now set up, and the question for the Court to decide is whether in the face of this deed the evidence adduced by the claimants is sufficiently strong to establish their case. This is a mere question of fact, and we are all of opinion, that it is far more easy to account for any inaccuracy in the description of the daughters, as their mother's co-heirs in the deed of 1728, than to escape from the inference from the other evidence as to the maternity of John Harrison, the son. When the deed in question was executed, all Ann Procter's daughters were dead. John Harrison, the son, was dead, and there is no evidence to shew on whose instructions the deed was executed, nor what information, if any, the parties had as to the real facts, or as to their respective rights. Some evidence on this point was tendered by the claimants, but was objected to, and was held inadmissible for reasons stated

by the Court, in the course of the argument. There is nothing in the deed except the word 'co-heirs' as applied to the daughters, which presents a difficulty in the claimant's way. The erroneous use of that word may be readily accounted for if the real facts were known. Even if they were known the use of the word 'co-heirs,' though not strictly accurate, would be accounted for by the fact, that the three daughters were, as the sole issue of Ann Procter, by her first husband, the only persons entitled to the property, being dealt with by the deed. To describe the daughters as her 'co-heirs' as regards this property, would not be a very violent use of language although, of course, it would be technically inaccurate. It is, however, to be observed that the word only occurs in the description of the parties to the deed, it does not occur in any formal recital, nor in any part of the deed where accuracy is important."

His Lordship concluded by stating that he considered that it had been proved that John Harrison, the younger, was the son of John Harrison and Ann Procter, and he gave judgment accordingly.

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## CHAPTER III.

### THE CLAIMANTS THROUGH THE BARTONS AND THE FRECKLETONS.

THE marriages of Ellen and Isabel Harrison, and the descent of the claimants, Thomas Cornall Barton, Miss Bulcock, Mrs. Dobeon, and Alice Ann and Louisa Emily Forrest.

AS soon as the series of trials between the rival claimants, William Horner, Mrs. Crossfield, and Mrs. Slagg, had been decided in favour of the latter, Mr. Jeans, the solicitor, who had throughout acted for Horner, determined to see if it was not possible to trace some direct descendants of John and Margery Harrison, and so to prove a better title than that of Mrs. Slagg, who claimed through the female line. As already shown, all the issue of John Harrison, the eldest son of John and Margery Harrison, had become extinct, and all the four younger sons of John and Margery Harrison, viz., Richard, William, James, and Laurence, had died without legitimate issue, and the only children left unaccounted for were Ellen and Isabel, their two daughters. From the will of John Harrison, the father, made 18th October, 1667, it is clear that these two daughters were then unmarried, but in the will of Margery Harrison, the mother, made 23rd May, 1672, she describes her two daughters as "Ellen, the wife of Henry Barton, and Isabel Harrison." William Harrison, their brother, in his will, dated 22nd February, 1674-5, thus mentions them "Item I give and bequeath to Elizabeth, the daughter of Henery Barton, of Lea, five shillings."..... "Item I give and bequeath unto Henery Frecklton, my

brother in law Ralph Frecklton[’s] sonn of Frecklton afore-said, my stout coult with the Collar of Bells.”.....  
 “Item I give.....to my sisters, Ellin and Isabell, everyone twelve pence.”.....“Item I give and bequeath all the rest and remainder of my goods, whatsoever, unto my brother-in law, Ralph Frecklton and Ellin Frecklton, his sister, equally between them.”.....“Lastly, I nominate and appoynt my said brother in law, Ralph Frecklton, sole executor of this my last will and testament.” Some seventeen years later, James Harrison, of Lea, their brother, in his will, dated 6th March, 1691-2, refers to “My loving sister Ellinges three children, and my sister Isabells three children.”

From these wills it would therefore appear,

- (1.) That Ellen Harrison, the elder of the two sisters, was married before 23rd May, 1672, to Henry Barton of Lea, (and such marriage is found to have taken place at Preston, on the 12th October, 1671, the entry in the register being thus worded, “Henry Barton and Ellin Harrison, both of Lea,” married); and that in 1692, she had three children living.
- (2.) That Isabel Harrison, the younger of the two sisters, had married before the 22nd February, 1674-5, Ralph Freckleton, of Freckleton, and that in 1692, she also had three children living.

It was therefore obvious that if these facts were correctly deduced from the above premises, that any direct claimants to the Harrison estates, who had Harrison blood in their veins, must be traced through the Bartons and the Freckletons.

It was, however, alleged by Mrs. Crossfield and adopted by Mrs. Slagg, that whilst it was true that Ellen Harrison had

married Henry Barton, of Lea, yet that Isabel Harrison had married a Thomas Weeton, and some entries in the registers of Kirkham and Preston showing this marriage, and the baptisms of certain children, were produced as evidence of this statement, and in the pedigrees used by Mrs. Crossfield and Mrs. Slagg, in the various trials, the marriages of Ellen Harrison and Henry Barton, and Isabel Harrison and Thomas Weeton, were inserted. The fact of William Harrison calling Ralph Freckleton his "brother-in-law" was sought to be explained by stating that this William Harrison had married Alice Freckleton, the sister of Ralph, and an entry of this marriage on the transcript of the Penwortham Registers for 1672-3, dated 8th January in that year, and a marriage licence bond filed at Chester, were produced in favour of this view. This suggestion, however, was open to the obvious retort, that there is not the slightest indication in the will of William Harrison, made the 22nd February, 1674-5, of his ever having been married, and that if he had married Alice Freckleton, he would have called her sister, Ellen Freckleton, his "sister-in-law," as she undoubtedly would have been, instead of saying "my brother-in-law, Ralph Frecklton and Ellin Frecklton his sister." As will, however, be subsequently explained, the entry of the marriage of William Harrison and Alice Freckleton on the transcript of the Penwortham Register, and the marriage licence bond for this marriage, and all the Weeton entries in the registers of Kirkham and Preston, were shown to be undoubted *forgeries* at the trial at Liverpool, in May, 1886. We may therefore leave them for the present with the passing reflection that whoever was guilty of these forgeries, was exceedingly well versed in the Harrison pedigree, and seems to have almost intuitively suspected through which lines the heirs-at-law would ultimately prove their descent.

With a view of ascertaining if there were any descendants of Ellen and Isabel Harrison, then living, advertisements were inserted in the newspapers, and it was ultimately found that Thomas Cornall Barton, of Bolton-le-Moors was the direct male descendant of the Henry Barton, who married Ellen Harrison; and the descendants of Ralph Freckleton were also traced down to Miss Mary Jane Bulcock, of Preston; her sister, Mrs. Elizabeth Dobson, of Chicago, and their great nieces, Alice Ann, and Louisa Emily Forrest, the grandchildren of their sister Ann Bulcock, who married Frederick Anderton Forrest, of Blackburn. It also appeared that Miss Bulcock had in her possession a number of old deeds and papers, relating to the Freckleton family, by means of which, Mr. Jeans has been enabled to trace that family back to the time of Henry VIII. Amongst these papers was also found the probate copy of the will of Ralph Freckleton, who married Isabel Harrison, made 6th June, 1678, and amongst the papers of the intestate, Richard Harrison, the original of that very will was found, John Harrison, the elder brother of Isabel, and the ancestor of the intestate, having been Ralph Freckleton's trustee.\* This most clearly shows the direct connection between Miss Bulcock, and the deceased Richard Harrison, which is confirmed by the fact that on the original will, the memorandum of the grant to Isabel Freckleton, widow, of the tuition of Henry Freckleton, the son, during his minority, had been endorsed, whilst the original grant of such tuition was found in Miss Bulcock's possession.†

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\* A certified copy of this will, signed by John Harrison, the intestate's ancestor, is also among the wills proved in the Court of the Archdeaconry of Richmond, and now preserved at Somerset House, London.

† The original deed of release, dated 1699, and signed by Henry Freckleton and Ralph Freckleton, the two sons of Ralph Freckleton, whereby John Harrison and the other trustees of the will of Ralph Freckleton were released from all claims, was also found amongst the papers of the intestate, having come down to him from his ancestor, John Harrison, the trustee of that will.

As already shown, Isabel Harrison had three children living in 1692, and a little research proved that she had had four children in all, viz: *Henry* her eldest son, baptized at Kirkham, 26th July, 1674, mentioned in the will of his uncle William Harrison, dated 22nd February, 1675, but who died an infant, and was buried at Kirkham, 27th October, 1675; *Henry* baptized at Kirkham, 24th September, 1676, *Ralph* baptized at Kirkham, 1st September, 1678, and *Margaret*, whose baptism could not be found. Ralph Freckleton, her husband, was buried at Kirkham, 10th June, 1678, having made his will on the 6th June in that year, in which he refers to his wife Isabel, being then with child, such child being baptized as Ralph Freckleton, on the 1st September, 1678. In a number of old letters found amongst the intestate's papers, was one dated the 14th September, 1711, and written by a certain John Ryley, of Poulton, who states that he had "married Henry Freckleton's sister Margaret," and so was "cousin" to Elizabeth, the wife of John Harrison (the third, of Lea), to whom this letter was addressed. This letter clearly proves that Henry Freckleton had a sister Margaret, and so the three children of Isabel, living in 1692, Henry, Ralph, and Margaret, are all duly accounted for.

But in the will of Ellen Barton, made 22nd April, 1719, she mentions *inter alia* her "brother in law Thomas Hesketh" and the question at once arose who could this be? Any person other than a Barton (and so brother of her husband) to be described as her "brother-in-law" *must* have been the husband of one of her sisters,\* but she had only one sister

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\* It was attempted at the trial at Liverpool in May 1886, to show that this relationship of Thomas Hesketh, to Ellen Barton might be accounted for by the marriage of Isabel Barton (a sister of Henry Barton) to Thomas Hesketh, of Poulton, and an entry of such marriage was referred to as occurring in the Poulton Registers. This entry, which I have not seen, is I am assured, clearly a forgery, and was no doubt inserted in the register by the author or

Isabel, therefore the Thomas Hesketh called her "brother-in-law" in 1719, must have been the husband of this sister Isabel. This then clearly showed that Isabel had married Thomas Hesketh, for her *second* husband, at some period after Ralph Freckleton's death in 1678, and confirmation of this was obtained by the discovery of the burial at Kirkham of "Isabel wife of Thomas Hesketh" on the 4th February, 1702. Thomas Hesketh's will, dated 25th January, 1724-5, when examined, showed that he had an only daughter Margaret, then the wife of John Ryley, from which it was at once apparent that the Margaret, the wife of John Ryley, was the *half-sister* of Henry Freckleton, and that of the three children of Isabel Harrison, living in 1692, two of them, Henry and Ralph, were the sons of Ralph Freckleton, her first husband, and the third, Margaret, was the daughter of her second husband, Thomas Hesketh. The discovery of these facts was a very great help towards showing that Ralph Freckleton was undoubtedly the husband of Isabel Harrison, and that she was never married to Thomas Weeton, as Mrs. Crossfield and Mrs. Slagg contended.

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authors of the other forgeries. A very little reflection will show any one that Ellen Barton could never call her husband's sister's husband her "brother-in-law." My sister's husband although my "brother-in-law," is not my wife's "brother-in-law," and she could never properly describe him by that title.

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## CHAPTER IV.

### THE FORGED DOCUMENTS AND THE FRAUDULENT ENTRIES IN PARISH REGISTERS, &c.

The two Marriage Licence Bonds at Chester—The Marriage Licence Bond at Lancaster—The transcript of the Penwortham Register for 1650—The transcript of the Penwortham Register for 1672—The interpolations and erasures in the Kirkham and Preston Registers, and in the transcripts of those Registers, preserved at Lancaster—The forged entries in the Poulton and Lytham Registers.

As already several times referred to, certain Marriage Licence Bonds, now preserved in the Diocesan Registry, at Chester, and in the Registry of the Archdeacon of Richmond, at Lancaster, played a very important part in the history of this case. In order to understand these Bonds, it may be stated that in the 17th century, it was customary, when persons were married by licence, for the friends or relatives of the persons so married, to give Bonds to the Bishop of Chester, or to the Archdeacon of Richmond, as the case might be,\* in £100 or £200, that there was no lawful hindrance to the said marriage, and in case of any such marriage being proved to be illegal, the said sum would be forfeited to the Bishop. In these Bonds, the descriptive part was in Latin, and the "condition," as it is termed, in English.

The two Bonds, preserved at Chester, are both dated 8th January, 1672 [that is 1672-3 modern notation, the year then beginning on March 25th], and are similar in all other

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\* Lancashire and Cheshire and parts of Cumberland, Westmoreland, and Yorkshire, at this date, were under the jurisdiction of the Bishop of Chester, and for convenience it was arranged that those portions of the diocese of Chester, situated to the north of the river Ribble (on which Preston is situate), should be under the jurisdiction of the Archdeacon of Richmond, acting for the Bishop of Chester, whilst south of the Ribble, the Bishop acted for himself. In the former case, all the records were kept at Richmond, in Yorkshire, (being subsequently transferred to Lancaster), and in the latter case they were kept at Chester.

respects. By the one of them, Ralph Freckleton, of Freckleton, and Richard Harrison of Westby, were bound to John, Bishop of Chester, and to Joseph Cradock, Commissary of the Archdeacon of Richmond, in £100, for the marriage of the said Ralph Freckleton, a bachelor, aged 19, and Isabel Harrison, of the Chaine, within Ashton, in the parish of Preston, spinster, aged 22. By the second Bond, William Harrison, of Lea, in the parish of Preston, and Richard Harrison, of Westby, his brother (*ejus frater*), were bound to the same two persons in £100, for the marriage of the said William Harrison, bachelor, aged 32, and Alice Freckleton, of Freckleton, spinster, aged 17. The former Bond is signed by Ra. ffreckleton and Richard Harrison (a marksman), and witnessed by Richard Clegge, Vicar [of Kirkham, in which parish Freckleton and Westby are situated], and W<sup>m</sup>. Harrison, and the latter is signed by W<sup>m</sup>. Harrison and Richard Harrison, and witnessed by Clegge and Freckleton.

When I was asked by Mr. Jeans to examine and report upon these and other documents, I proceeded to Chester for that purpose, and being very familiar with the Marriage Licence Bonds of this period, of which I had at various times examined many hundreds, I was very much struck by the peculiar handwriting and orthography of these two documents, the colour of ink &c., in addition to which, there were other small peculiarities, which appeared to me very unusual. I was also aware that these Bonds had been the subject of a long discussion before the Arbitrator, in Porter and Nickson's case, in which the evidence of skilled experts on both sides had been taken as to their genuineness or non-genuineness, the evidence mainly, if not entirely, turning upon the question of the handwriting being contemporaneous or a modern imitation.\* Knowing also how difficult it always is to

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\* In the end as already stated the Arbitrator gave it as his opinion that these Bonds were *genuine*.

convince a Judge, or a Jury of the genuineness, or want of genuineness, of any document on the question of handwriting alone, I thought it would be better in the first instance to see if the fact of these two Bonds being forgeries, (of which I had little or no doubt in my own mind) could not be proved in other ways. Taking the two Bonds together and comparing the two signatures of Richard Harrison, of Westby, it was obvious (although in each case he only made his mark) that they were the signatures of the same person. This Richard Harrison, of Westby, moreover, in one of the Bonds is bound with William Harrison, of Lea, and is described as his brother (*ejus frater*). But as already pointed out (on page 14) by the evidence of the Court Rolls of the Manor of Lea,\* it was perfectly clear that Richard Harrison, the brother of William Harrison, of Lea, had died before May, 1671, a clear year and a half before the date of these Bonds! Therefore either the evidence of the Court Rolls was not genuine or these two Bonds were forgeries, as they were signed by a man who had died 18 months previously! But the genuineness of the Court Rolls was undisputed, and in fact this very entry had thrown out Mrs. Crossfield's claim, therefore it was clearly proved that, on this ground alone, these two Bonds *must* be forgeries.

In addition to this, the following considerations may be adduced to show that these documents are clearly not genuine:—

(1.) The Bonds are made in favour of a Bishop of Chester, at a time when there was no Bishop of Chester at all, the See of Chester being then vacant!

John Wilkins, D.D., Lord Bishop of Chester, died on

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\* It is there stated on the Court Roll dated 3rd May, 1671, that certain crofts called Darginson Crofts, (which had been devised by John Harrison, of Lea, to his son Richard, and his issue male, with remainder to his brother William.) had no tenant owing to the death of Richard Harrison, without issue, and that therefore William Harrison, his brother, was to be entered tenant for them.

November 19th, 1672, and his funeral was solemnized on December 12th, 1672, in the Church of St. Lawrence, Jewry, London. His successor, John Pearson, D.D., was consecrated in the following year—on February 9th, 1672-3. Hence during the period from the 19th November to the 9th of February, the See of Chester was vacant, and it was administered by the Archbishop of York, just as the See of Manchester has quite recently been administered. There are several Bonds in the Diocesan Registry at Chester, for this period, which are made in favour of the Archbishop of York, acting for the Bishop, owing to the vacancy of the See of Chester, &c. These Bonds are in manuscript and not on the usual printed forms, commonly used. Yet these two Bonds dated 8th January, 1672-3, are made out in the name of a Bishop, who had been dead nearly two months.\*

(2.) It was contrary to all established custom to insert the ages of the parties in these Marriage Licence Bonds. I have examined many hundreds of them for various years in the 17th and 18th centuries, and I have never met with a single instance in which the ages of the parties are given. The clerks in the Bishop's Registry, who are now sorting and re-arranging this class of documents, assure me that they have never met with any instance of such a practice. Had such a practice been customary, it would have been of the greatest value to all genealogical enquirers. On the Marriage Licence Affidavits, which begin *circa* 1750, the ages are entered, but not on the Bonds.

(3.) The phraseology of these Bonds differs materially from the phraseology of the genuine Bonds of this period, which followed one uniform style and in which an important part of

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\* As counsel remarked in opening the case at the Trial at Liverpool, in May, 1886, "the Bond is made not only by a *dead* man but is made to a *dead* Bishop!" (See p. 125.)

the condition could never by any possibility be omitted, as is done in these two instances.

*The "Condition" of a  
Genuine Bond.\**

The Condiçon of this Obligaçon is such y<sup>t</sup> if there be noe Lawfull Lett or Impedim<sup>t</sup> but y<sup>t</sup> Rob<sup>t</sup> Howarth of y<sup>e</sup> pish of Myddelton in the County of Lanc Carpenter & Isabel Grimshaw of Castleton in the County of Lanc afors<sup>d</sup> spinster may be Lawfully Married according to y<sup>e</sup> Lawes of y<sup>e</sup> Church and Ordinances of this Realme in y<sup>t</sup> behalfe provided And if y<sup>e</sup> s<sup>d</sup> pties have the consent of their Parents (if they be liveing) or of their Tutors & Governors to the solemnacion of the s<sup>d</sup> marriage *And doe proceed herein in all things according to the effect of Lett<sup>rs</sup> of dispensacion to them in y<sup>t</sup> behalfe granted And finally doe at all times hereafter save and keepe harmlesse y<sup>e</sup> above named most Redend Fath<sup>r</sup> his Officers and Ministers for and concerning the granting of y<sup>e</sup> s<sup>d</sup> L<sup>tes</sup> and dispensacion.* Then this present obligaçon to be void or els to remaine effectuell in the Law.

*The "Condition" of these  
forged Bonds.*

The condiçon of y<sup>e</sup> afore written obligaçon is such y<sup>t</sup> if there bee noe lawfull lett or impedym<sup>t</sup> butt y<sup>t</sup> Willm Harison bachelour aged xxxij and Alise ffrekelton of ffrekelton, in y<sup>e</sup> Countie of Lancr spinster aged xvij maye bee lawfullye maryed accordynge to y<sup>e</sup> lawes of y<sup>e</sup> Realme in y<sup>t</sup> case pvided and if y<sup>e</sup> sayde parties have y<sup>e</sup> consent of their parents (if they bee liveinge) or of their Tutours or Governours to y<sup>e</sup> solēm of y<sup>e</sup> sayde maryage. Then this p<sup>re</sup>sent obligaçon to bee voyde or else to remayne in ffull fforce and vertue.

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(\*) The words and sentences omitted in the forged Bonds are printed in italics.

(4.) These Bonds are drawn in favour of the "Bishop of Chester, and Joseph Cradock, Commissary of the Archdeaconry of Richmond," instead of in favour of the Bishop and *Sir Joseph Cradock, Knight, Doctor of Laws*, which was the correct designation of the latter. It is almost impossible to understand any genuine contemporaneous Bond being drawn up, in which such omissions could occur, as one would expect it would be at once returned by the officials in the registry, to have this omission rectified. Again, it may here be noticed that all Bonds, to which the Commissary of the Archdeaconry of Richmond was a party, should have been filed at Richmond and not at Chester, and that I have never previously met with any Bonds, to which he was a party, amongst the Bonds preserved at Chester.

(5.) It will be noticed in these Bonds, that to each of them there is attached the signature of William Harrison, of Lea. Yet, to the undoubtedly genuine will of this William Harrison, of Lea, dated 22 February, 1674-5, and now preserved at Somerset House, he signs the will as a marksman only, making a letter very like a Q as his mark. Again, too, when the signature of this William Harrison is examined, it is a most anomalous one. The H is far more like a 19th than a 17th century letter, and the fact of his using a form of the letter s, which is only employed, when it comes as the last letter of any word, but is here used by him in the middle of his signature, is as extraordinary a departure from ordinary practice as can well be imagined!

In the Registry of the Archdeaconry of Richmond, at Lancaster, is preserved a Marriage Licence Bond, dated 11th October, 1671, and purporting to be a Bond, whereby Richard Harrison, of Lea, in the parish of Preston, and Butler Brown, of Freckleton, are bound to John, Bishop of Chester, and to *Sir Joseph Cradock, knight, Commissary of the Archdeaconry*

of Richmond, in £200, for the marriage of the said Richard Harrison, aged 32, and Ellen Fletcher, of Westby, aged 25. It is signed by Richard Harrison (a marksman), and Butler Browne (a marksman), and witnessed by Richard Clegge, [Vicar of Kirkham], and James Smythe.

This Bond has all the peculiar characteristics of the two Bonds at Chester, already described, and like them, it is signed by Richard Harrison, of Lea, (a marksman), some five or six months after his death! Thus like them it is *proved* to be a forgery, by being made to be signed by a man who was then dead. It is perfectly true that the marriage of a certain Richard Harrison and Ellen Fletcher, of Westby did take place on the 12th October, 1671, at Kirkham, but he was *not*, as here made out by this forged Bond, Richard Harrison, of Lea, (the brother of William Harrison, of Lea, as described in the Chester Bond), because that individual was then dead, but this Richard Harrison was then living, or went to live very shortly afterwards, at Westby, and is generally known as Richard Harrison of Westby. He can be proved to have been the son of a certain William Harrison, whereas Richard Harrison, of Lea, was the son of John Harrison of that place. In this Bond, the ages of the parties about to be married are set out, a departure from the usual practice, which is, I believe, as unique amongst the Bonds preserved at Lancaster, as the other two are amongst the Bonds preserved at Chester. It should also be carefully noticed that this Bond is unique in another respect also, and that is in the use of the word "etcetera" in the Latin portion of the Bond, and the words "and soe forthe" in the English portion. Thus whilst purporting to be a carefully drawn legal document, this Bond has this most illegal phraseology, occurring no less than six times, "etcetera" twice, and "and soe forthe" four times! Unfortunately for the

writer, the "Condition" of the Bonds drawn up for the Archdeaconry of Richmond is unusually long, and he clearly had not space for the whole of it, so he condensed it by leaving out what were to *him* unimportant details, and adding the ingenious but illegal phrase "and soe forthe" in their place.

*The "Condition" of a  
genuine Bond.*

The Condition of this Obligation is such That if the above bounden Edmund Warriner and Margrett Whorton widdow both of pish of K. Lonsdall above said Now licensed to be married together beneither of Consanguinity *nor Affinity the one to the other within the Degrees prohibited for marriage*, and if there be no Precontract by neither of them *to any other person whomsoever*; and if they have the Consent of their parents or Governours (if they be living) And if the marriage be solemnized in such manner *and forme as in the Canon in that behalfe is specified*: And shall *well and truely* at all times save, defend, and keep harmless and indemnified *the said Commissary, and all his Officers. And shall give further and better security to the said Commissary whensoever required*: Then this Obligation to be voyd, or otherwise to be in force.

*The "Condition" of this  
forged Bond.\**

The Condēōn of this Obligaōn is such that if y<sup>e</sup> above bounden Richard Harryson bachelour Ætat xxxij & Ellen ffletcher De Westbye of this parish spinster Ætat xxv now lycensed to bee marryed together bee neither of Consanguinitye & *soe forthe* & if there bee no p-contract bye neither of them & *soe forthe* & if they have y<sup>e</sup> consent of their parents & Governours (if they bee lievienge) — And if y<sup>e</sup> marriage bee solemnized in such manner & *soe forthe*— And shall at all times hereafter save Defend & keepe harmlesse & indempnyfyed & *soe forthe*—Then this p<sup>s</sup>ent Obligaōn to bee voyde else to remayne effectuall in y<sup>e</sup> Lawe.

\* The words and phrases omitted are put in italics, and may be contrasted with the words "soe forthe" used in the forged Bond.



A narrow sheet of parchment, preserved among the transcripts of the Register of the parish of Penwortham co. Lanc., in the Diocesan Registry at Chester, is headed at the top.

Burialls in Año

dñi 1650

at Penwortham

The words "at Penwortham" are clearly in a different hand, and a different ink to the heading, and to the entries of burials, which follow. The figures 5 and 0 have been tampered with, and the parchment thereabouts is rubbed and dirty. Looked at through a glass there is a faint indication of the lower stroke of the 4 as if the original date had been 1640 and the 4 had been erased, the figure 5 substituted, and the 0 touched up slightly. When held up to the light it is obvious that the figure 5 has been written over an erasure.

The burials are 69 in number, commencing with an entry, dated March 26th, (the year then beginning on March 25th), and ending with an entry dated March 21st. After this last entry the figures 1650 have been added in a different hand and different ink to the previous entries.

The burials extend to the bottom of the narrow sheet of parchment and are continued on the back or reverse side, and come down about half way on that side. On the lower half of the parchment on this side are these entries:—

"Christnings in December, 1650.

"Jane da of John Thomson of Longton bap. y<sup>e</sup> 3<sup>o</sup>

"Mary da of Samuel Short of Hutton bap. y<sup>e</sup> 6<sup>o</sup>

"Issabel da of Mary Haryson spiñ de Chaine Ash y<sup>e</sup> 12<sup>th</sup>

"Elizabeth da Wilm Clarke de Longton bapt y<sup>e</sup> 13<sup>th</sup>

"Richard son of Robt Houghton de Longton bapt y<sup>e</sup> 15<sup>th</sup>"

These entries of christenings are in quite a different hand—

writing and ink to the burial entries. The handwriting and ink are the same as those of the words "at Penwortham" on the heading of the parchment. Again, both the handwriting and ink bear a very great similarity to, if indeed they are not identical with the handwriting and ink of the entries on the back of the transcript of the Penwortham Registers for the year 1672, subsequently to be described (although purporting to have been written 22 years before), and it was this great similarity which caught my eye in examining these transcripts, and before I had noticed that the name of Harrison occurred among the entries.

Many facts might be adduced to show how much suspicion attaches to the genuineness of these entries, and how similar the writing is to that of the bonds of 1672, twenty-two years later, had I not been enabled to *prove most conclusively* that the true date of these burial entries is 1640, and that this date has first been altered to 1650, and that then these Christenings have been added, under the belief that this alteration of 1640 to 1650 would never be detected. It is of course impossible for any copy of the Registers of 1640 to contain genuine entries belonging to a period 10 years *later*.

Among the 69 Burials recorded on this transcript, the following may be noticed:—

- (1) John Wildinge of Hutton buried Martch y<sup>e</sup> 26<sup>th</sup>  
(the first entry)
- (2) John Sudell of Long: buried May y<sup>e</sup> 24<sup>th</sup>
- (3) M<sup>r</sup>: Bradshaw clerke minister of Penworthã bu:  
Martch y<sup>e</sup> 11<sup>th</sup> (the last entry but three).

And in the transcript for 1641 is this entry:—

John Wildinge of Longton bu: Maij the 9<sup>th</sup>

In the Probate Court at Chester the will of John Wilding,

of Longton, is still preserved, being dated 26th March, 1641, and proved 15th May, 1641. He desires his body to be buried at Penwortham, and refers to the children of "John Wildinge late of Hutton;" which shows that the entry (No. 1.) "John Wildinge of Hutton," buried Martch y<sup>e</sup> 26<sup>th</sup> must have been *before* 1641, and therefore could not have taken place in 1650, unless there were two persons of the same name and place.

There is also in the Probate Court at Chester the will of John Sudell, of Longton, dated 5th May, 1640, and proved at Chester, 12th June, 1640, the inventory of his effects being taken on May 27th. He desired to be buried "in the parish church of Penwortham" and the entry (No. 2) of the burial of "John Sudell, of Long[ton] May y<sup>e</sup> 24<sup>th</sup> is clearly his, and this entry must therefore belong to the year 1640.

No will of Mr. Bradshaw, the Curate (or Incumbent, as we should term him), of Penwortham, is to be found at Chester, nor can the institution of his successor be found in the Institution Books, as these were very irregularly kept at this period. There are however in the Probate Court, at Chester, a number of folio volumes called "Probate Act Books," in which the "Acts" or grants of probate, or letters of administration were entered at the time. These books are known to very few persons, and are very rarely consulted. In the volume for the years 1635 to 1661 is the following entry:—

xv Martij 1640.

Bradshaw. Cõmissæ fuere l̃ræ Admrãcōn bonorū Nathaniel  
Bradshaw cl.nup dum vixit Curat de Penwortham  
defunct Nicholao Bradshaw eius f̃rī primitus de  
bene &c. pter iurat Salvo &c.

(Translated)

15th March, 1640.

**Bradshaw.** Letters of Administration of the goods of Nathaniel Bradshaw, clerk, lately whilst he lived Curate of Penwortham, deceased, were granted to Nicholas Bradshaw, his brother, the right of every person being saved &c. (The usual clauses appended to all these entries).

This clearly proves that the " Mr. Bradshaw clerke minister of Penwortham bu: Martch y<sup>e</sup> 11<sup>th</sup> " was buried in 1640, and therefore that all these entries must belong to that year. It may be added that he signs the transcript for the year 1634 as " Nat : Bradshaw curat," and that for 1637 as "Nathaniel Bradshaw, clerk, Curate of Penwortham."

The transcripts of the Christenings and Marriages for 1640 still exist (and they are in the same handwriting as this list of Burials) but the list of Burials for that year, which had been stitched on to the sheet containing the Marriages, is now missing. It is clear therefore that this sheet has been detached and taken away, the date altered to 1650, the old fold taken out, and fresh ones introduced, the forged Christenings then being written on it, the upper part of the parchment being at the same time cut off, so as to do away with the holes, where the stitches had gone through!

On a transcript of the Register of the Parish of Penwortham for the year 1672 (commencing March 25th,) are certain entries written on the back of the parchment, and professing to be omissions in the transcript of the Marriages for that year. They are as follows :—

Omissiones in conjugiiis  
Nuptiæ año dñi 167 $\frac{2}{3}$

Willm Harison de lea paro de Preston etat xxxij et  
 Alise ffrekilton paro de Kirkam etat xvij p<sup>r</sup>. } Januarij x  
 liçentiâ Viê Clegg

Ralphe ffrekilton de ffrekilton paro de Kirkam etat  
 xix et Issabell Harison paro de Preston etat xxij } eodem die.  
 p<sup>r</sup>. liçentiâ Viê Clegg.

John Jameson et

huius

ffebr iij

H. R. }  
 R. H. } Churchw.  
 ... E. }

With regard to the above entries, I am of opinion that they are not genuine, for the following reasons:—

(1.) The handwriting and ink differ entirely from the handwriting and ink of the genuine entries on the other side, and are very similar, if not absolutely identical, with the handwriting and ink of the entries on the bonds at Chester, and on the other transcript for 1650, which have been all *proved* to be forgeries.

(2.) The insertion of the ages of the parties in these entries is a clear indication of their not being genuine. I have personally examined a large number of parish Registers in Lancashire, Cheshire, and other places, and have copied hundreds of entries from them, and I have also read printed extracts from very many other parish Registers, in all parts of England, and I have never met with a single entry of a marriage in which the ages of the contracting parties are given. Were such a custom possible I need not point out how advantageous it would be to all genealogists, as affording a means of identification of individuals, which would be invaluable. The officiating clergyman, however, could have no means of knowing the ages of the persons he married, and he would hardly be justified in inserting in the Registers the ages given by the parties themselves; who, for many reasons,

might often desire to conceal the truth.\* The insertion of the ages of persons when married is not done even now, and as far as I am aware, never has been. Hence the occurrence of an entry in which such particulars are given stamps that entry with the very greatest suspicion.

(3.) In case it should be alleged that such a custom might have prevailed at Penwortham; I carefully examined all the transcripts of the Penwortham Registers, now at Chester, from 1608 (the earliest) to 1700, and in no single case does any such an insertion of the ages of the contracting parties occur. The original Registers were unfortunately burnt in 1856.

(4) If the genuine entries of the marriages celebrated at Penwortham in 1672, and copied on this transcript, are referred to, it will be seen that at the bottom there has been added in a different handwriting and ink, the words "vide trans," these words being in the same hand and ink as the entries on the back of the transcript. It will be noticed that amongst these genuine entries, there are entries of marriages on January 13th, January 15th, January 18th, January 26th and February 5th, all uniform in character, and merely giving the names and residences of the contracting parties and the dates of their marriages. Yet we are asked to believe that, by some chance, two entries on January 10th, and one on February 3rd, have been accidentally omitted, and that these have been obliged to be copied on the back, and that two of these entries differ in every way from all the other entries for that year, and for all other years. We must also bear in mind that these are certified transcripts of the

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\*As the Vice-Chancellor remarked, when Mr. Clare alluded to this point in his opening address—"A great many ladies beyond a certain age would absolutely refuse to give their ages, and no Vicar could extract it from them." He also added—"Having had to do with Peerage cases, I have had some little experience, but I never in my life saw a case in which the entries gave the ages of the parties married, except in the single instance of where it was the marriage of an infant ward, and then it showed the amercement paid to the Lord."

original Registers, in which the entries would have been placed in their natural sequence, and where there could be no reason whatever why these two entries should be entered in any different way to any of the others.

(5.) In these transcripts between 1608, and 1700, there are many entries of marriages by licence, but in no case is the name of the Surrogate granting the licence recorded, as is here the case with the two entries on the back of this transcript and with these entries only.

(6.) In no other case in these transcripts between 1608 and 1700 is there a single instance of any entries having been omitted and endorsed on the back, and in none of the many other transcripts, which I have at different times examined, can I call to mind ever having met with a similar instance.

These entries, having so many anomalous characteristics, and differing so widely from all the genuine entries of this period, deserve to be looked upon with the very greatest suspicion, and this suspicion will be enhanced on reflection, when it becomes apparent that they were most probably entered in this peculiar and unusual way, so as to agree with the two Marriage Licence Bonds at Chester, already shown to be forgeries. By these Bonds, William Harrison, aged 32, had a licence from Vicar Clegge to marry Alice Freckleton, aged 17, whilst Ralph Freckleton, aged 19, had a similar licence to marry Isabell Harrison of the Chaine-within-Ashton, in the parish of Preston, aged 22. And accordingly, we have here, the entry of the marriage of William Harrison, aged 32, and Alice Freckleton, aged 17, by licence of Vicar Clegge, and that of the marriage of Ralph Freckleton, aged 19, and Isabell Harrison, of the parish of Preston, aged 22, also by licence of Vicar Clegge! Now, if the Bonds are forgeries, as has been proved, is it not a fair inference that these anomalous and most suspicious entries, entered, too, in such an unusual

manner, are also forgeries, and that both they and the Bonds were written by the same individual? Again, too, when it is found that the handwriting of the Bonds and that of these entries agree in so many minute particulars, this surmise becomes a certainty. It is also noteworthy that the handwriting of these entries of 1672, that of the forged Bonds of 1672, and that of the forged entries of 1650, is so identical that it is almost certain they were all made by one and the same person. So that proof of forgery having been found in two cases out of the three, it follows, almost as a matter of course, that the third is also a forgery.

As instances in favour of the suggestion that the various documents were written by one person, the following examples may be given:—

- (1.) The word *paro* for “*parochiæ*,” occurs in the Bond No. 1, and four times in these entries. It is quite unusual and characteristic, the proper contraction being *pochiæ*.
- (2.) The very peculiar broken backed J of the Januarij in these entries, occurs also in the bonds, and in the 1650 entries, and is most unusual and characteristic.
- (3.) There is a caret ( ^ ) over the c in the words Riê Clegge Viê in the bonds, and in the words Viê and cõjugiis in these entries, and over the c in Dêcember in the 1650 entry. This is unusual for writing of this date. It does not occur in the genuine Register entries of this period.
- (4.) The Ch in Churchw[ardens] in these entries, the Ch in Cheyne in Bond No. 1., and the Ch in Christnings in the 1650 entry, are exactly similar and



very peculiar. The C is like a Greek  $\theta$  and the h is below the line, a mode of writing not customary at this time.

- (5.) The P in Preston in these entries is of unusual shape, but is very similar to the P of Penwortham in the 1650 entry, and to that used in the bonds.

We will now consider some of the entries in the parish Registers at Kirkham, Preston, Poulton, &c., which have either been tampered with or fraudulently inserted in those registers.

The second volume of the PRESTON Registers is a thick, narrow folio volume, the greater part of the entries being clearly and legibly written. They are arranged in months—in the order of Christenings, Marriages, and Burials. Thus,

Christenings October 1671

Marriages      October 1671

Burials        October 1671

Of the various entries I examined, the following are worthy of notice:—

Marriages, October 1671.

Henry Barton and Ellin Harrison, both of Lea mar: the  
12<sup>th</sup> day.

This is the first entry of the marriages for this month. It is perfectly genuine and exactly in the same form and handwriting as all the others of that date.

Christenings, December 72.

Elizabeth, daughter of Henry Barton, of Lea, bap. 18 Day

Christenings, March 1674.

William, son of Henry Barton, of Lea, bap. 17.

With regard to these two entries there is this peculiarity noticeable, that they are the last entries of the Christenings in those particular months, and that they have evidently been written in the register subsequently to the other entries, being in a different hand and in different ink. In the first instance the previous entry is the 29th, and in the latter the 28th. These are, I think, perfectly genuine entries, which for some reason or other have been written in the register subsequent to the rest of the Christenings for those respective months. In the Christenings for December 1673, there is an exactly similar entry in the same handwriting and ink, and it also comes the last in the series and subsequent to an entry dated the 28<sup>th</sup>. This entry is as follows:—

Anne, daughter of Allan prickett, Esq<sup>r</sup> Counsell at Law,  
of Preston, bapt. 3 day.

There are many other instances of this kind, in some of which the child is entered as being “born” and not baptized. It has been suggested that these may be the entries of children of Roman Catholic or Nonconformist parents, which were not given to the person writing up the Register in time to be inserted in their proper places. No doubt can be entertained of their being genuine contemporary entries.

#### Marriages, February 1680.

Thomas Weeton & Isabell Harrison de Lea 5.

John Jackson & Catherine Blacowe, of Preston, 6.

These are the last two entries of the Marriages for that month and they come at the bottom of the page. The ink in which they are written is quite different from the other ink on the same page, and is now very faint so that these entries are now difficult to read. The previous entry has the appear-

ance of having had certain letters touched up. This entry is as follows :—

Thomas Whitacre of y<sup>e</sup> Castle Parish in Clitherow &  
Jenet Hatch of Preston, 4.

There have been no erasures here the surface of the parchment being quite smooth.

In my opinion there is not the slightest doubt that the Weeton and Jackson entries have been *inserted* in the Register, where there was a blank space. The Thomas of the Thomas Weeton has been clearly imitated from the Thomas of the Thomas Whitacre of the entry just above it.

It is also noteworthy that the expression “de Lea” is used. I carefully looked at all the entries on the same page, the previous page, and the succeeding pages, and could not find a single case in which *de* was used. The entries at this period are all in English and “of” is the only word used except in this particular instance. There are several instances of “of Lea,” so that there is no reason whatever, if the entry is a genuine one, why “of Lea” should not have been used in this case instead of the remarkable “de Lea.”

When at Lancaster I examined the transcripts of the Preston Registers for this year, 1680, and here the condition of things is very curious. The last two entries there of the marriages for that year are as follows :—

February, Marriages 1680.

- |  |       |
|--|-------|
|  | Hatch |
| 4 Thomas Whitacre of y <sup>e</sup> Castle parish in Clitherow & Jenet | ^     |
| 5 Thomas Weeton & Isabel Harrison of Lea.                              |       |

The other entry of the marriage of John Jackson and Catherine Blacowe does not appear at all !

A careful examination shows that the Weeton entry is in a different coloured ink to the other entries, and in a hand imitating them. The first portion, too, is written on an erasure, the parchment being rubbed and dirty, whilst it is quite smooth elsewhere. It is also clear that the previous entry has originally been the last for that month, and has run as follows:—

4 Thomas Whitacre of y<sup>e</sup> Castle pish in Clitherow & Jenet  
Hatch of Preston.

followed at once by February. Burialls 1680.

In order to insert the Weeton entry the words *Hatch of Preston* have been carefully erased, and the word Hatch with

Hatch  
a ^ inserted at the end of the previous line, thus: ^  
Then the Weeton entry has been put in, in the one line space, and the Jackson marriage has been omitted, for the simple but all sufficient reason that there was not room for it! The

Hatch  
ink of the word ^ and of the Weeton entry is the same, and there is no other portion of the transcript where there has been any erasure or where this ink occurs. Hence I conclude that the entry of this Weeton marriage is a distinct forgery, both in the original register and in the transcript.

Marriages, February 1681.

There is a very decided erasure here, the parchment being very much rubbed and dirtied. There is a space in all of about an inch and a half, which would give room for one or two entries. The word "none" has been entered on one side of this space, and is written in a brownish coloured ink.

There is no transcript for this year now preserved at Lancaster.

### Marriages, February 1682.

Here a piece of rather less than an inch has been cut from the top of the register, but it does not appear from the transcript that any entry is missing.

### Christenings, September 1685.

The last entry has been entirely erased, but some faint traces of the letters may still be seen.

### Christenings, Novemb<sup>r</sup>. 1686.

Robert son of Thomas Weeton of Lee. 28.

The word "Robert" has been written over another name which is partly erased, and it and "Thomas Weeton" are in a different handwriting to the rest of the entries. The writing is very like that of the marriage entry in 1680. The previous entries have been slightly touched up. The first word has rather the appearance of having been William, faint traces of the W and m being visible.

No transcript for this year is now preserved at Lancaster.

### Christenings, April 1690.

Isabell daughter of Thomas Weeton of Lea. 22.

The word "Isabell" is very indistinct and has apparently been written over another name. The "Thomas Weeton" has a suspicious look.\*

There is no transcript for the first half of this year preserved at Lancaster.

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\* It may here be added that these are by no means all the entries in the Preston Registers which are of a suspicious character. Many earlier ones may be cited, some of which I have personally examined, and others of which I have only heard. The entries in the text are those on which I was asked to specially report in connection with the trial then pending.

In all these cases there is a laboured effect about the writing which is not visible in the other entries on the same pages. In the latter the writing is that of a man writing his accustomed hand, whereas in the former the letters are much more carefully formed, and the words have evidently been done slowly and carefully. There is no freedom about them.

It should also be noticed that two leaves, or 4 pages of the Preston Registers comprising the entries from December 1687, to September 1689 have been *cut out* of the book, the cut made by the knife having pierced the adjacent page. The string which kept these pages together is white, which shows that this cutting must have been comparatively recently done.

The second volume of the KIRKHAM Registers commences in September 1653, the Baptisms are all together, from 1653 to 1731, then come the Burials for the same period, followed by the Marriages for the same period.

#### Burials, November 1674.

##### 12. Alice Vx W<sup>m</sup> Harison de ffrec.

This entry has been much touched up. I am inclined to think that the words "Alice Vx W<sup>m</sup>" are genuine, and that Harison has been substituted for some other name. The H is peculiar, and altogether the word has a very suspicious look about it. The parchment is rubbed and greasy.

There is no transcript for this year at Lancaster.

#### Baptisms, Julij, 1674.

##### 26 Henry fil Ralph & Isabell ffreckleton De ffreckleton.

This is a perfectly genuine entry, but the word Isabell has been filled in in a different coloured ink, but by the same hand. There are several entries showing this feature on the

pages open at this place, as if the clerk had not known the parents' names at the time of the entry. Thus

May 1674.

31 James fil *T* & *Alice* Edrington de Wharles

The *T* and the *Alice* both filled in subsequently.

February 167 $\frac{3}{4}$ .

15 *Alice* fil Edward & *Isabell* Maior de Whesham.

March 167 $\frac{3}{4}$ .

1 Anne fil: Thomas & *Isabell* Jelley de Neuton.

Both the words *Isabell* have been filled in subsequently and are identical with the *Isabell* of the Freckleton entry.

Baptisms, Aprill 1691.

26 *Alice* f. Tho: & *Isabell* Weeton de Westby.

This entry comes at the bottom of the page. The ink is of a purplish colour and differs from the ink of the other entries, and it and the character of the writing are very like that of the next entry to be described. The whole entry has a very suspicious appearance, the *W*'s being most peculiar and more like *H*'s. They differ from all the other *W*'s on the pages open at this place.

In turning over the pages of the Register this entry caught my eye from the difference of the *ink* to the other entries, and it was only on examining it that I saw it related to the *Weetons*.

Baptisms, June 1693.

18 Tho: f: Tho: & *Isabell* Weeton Westby.

This, like the one just referred to, is the *last* entry on the page, and is in different ink to the other entries on that page.

The handwriting is not the same as that of the other entries on that page but is an imitation of the latter. The letters (Wee) do not agree with those in the word Weeton two pages earlier which reads

1692 July 17 William f. John & Jennet Beesley de  
*Weeton.*

The parchment is discoloured and rough. There is no transcript for this year now preserved at Lancaster.

Burials, June 1719.

6 Rob<sup>t</sup> f. Thomas weeton Plumpton  
16 Henry f. W warbeck Freckleton.

The two words "weeton" and "warbeck" are both clearly written upon erasures. The surface of the parchment is there quite gone and is much discoloured. The handwriting of these two words is different from the handwriting of the other entries, and is much more laboured. The word "Weeton" occurs on the opposite page and is different to this.

There is no transcript for this year at Lancaster.

Burials, July 1722.

26 Issabel Ux Thomas Weeton, Westby.

The word "Ux" is written apparently on an erasure, the parchment being rubbed and discoloured, or it may be that that word has been merely rubbed over and that the entry is genuine.

In the transcript at Lancaster the entry reads as follows :—

Burials, July 1722

26 Issabel ux Thom Weeton W. D. Westby.

This entry has clearly been tampered with, the words "ux,"



“Thom Weeton” and “W.D” being written over an erasure and in a different ink and handwriting. The parchment is much rubbed and is very greasy. It is very noteworthy that the word “Weeton” is written in a hand of the previous century, with the old-fashioned e’s, whereas most, if not all the other e’s in this transcript are in the handwriting of the time, like our modern e’s. I have no idea what the letters W.D. stand for or what they are meant to signify.\*

Burials, July 1723.

4 Issabel f. Thomas Weeton Plumpton.

The word “Weeton” is clearly written on an erasure in rather purplish ink. The word in the next entry underneath Weeton is so rubbed as to be illegible.

The transcript of the Register for this year is at Lancaster, and in that this burial occurs, and is a perfectly genuine entry, differing in no respect from the other entries on the sheet. It is most probable that the name in the Register has been tampered with and then restored to what it formerly was.

Burials, May 1725.

7 Thomas Weeton, Westby.

This is written in different coloured ink to the rest of the entries and comes at the bottom of the page. The parchment is rubbed under the 7 and Thomas Weeton.

In the transcript of the Register for this year at Lancaster this entry *does not occur*, although all the other burials for that month agree with those in the Register, the entries above and below it duly appearing, the one on May 6th and the other on May 9th!

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\* It may be that they have been meant for wid.—widow!

It will thus be seen that *every* Weeton entry examined both at Preston and Kirkham has been more or less tampered with.

In addition to the forgeries in the Preston and Kirkham Registers above described, an inspection of the Registers of the parishes of Poulton and Lytham shows that they, in like manner, have been tampered with. In both these cases the Registers were in bad condition, many of the leaves being loose and misplaced. In the second Poulton Register some of the leaves appear to have had only one or two entries written upon them, and this has given the forger, whoever he was, ample opportunity of trying his prentice hand, so to speak, here, before proceeding elsewhere, where greater skill would be required. In my judgment there are on some of the pages of this Register as many as three or four forged entries, whilst on others there are only one or two. No doubt these were made in order to cloak the two or three important forged entries relating to the Harrisons, so that if these were ever called in question, the others on the same page could be shown as being in the same handwriting and ink.

The forged Harrison entries in the POULTON Registers relate principally to an earlier period than those described under Preston and Kirkham, and speaking generally to the period between 1640 and 1670. For this reason these entries, not having any bearing on the Freckleton line of descent, were not examined so particularly as those in the Preston and Kirkham Registers, but the following notes may be of interest:—

The first page of the entries of marriages in this volume begins May the 19th, 1664, and this entry is followed by one dated June 1672 recording the marriage of Mr. George Shaw, Vicar of Poulton, and Margaret Bamber of the same place. Then there is an entry for July, followed by four entries in a

different ink and a different handwriting, the last of which is dated August, 1672. Then over the leaf at the top of the page is an entry dated May, 1666, six years *earlier* than the previous one. This is as follows:—

Richard Harrison of berks within westby }  
and Ales Currer of Marton was married } xx<sup>th</sup> day

This is followed by other entries for Jullia (*sic*) 1666 and August 1666 to the bottom of the page, and then on the next page the entries begin October 1666, and go on in regular order. The handwriting and the ink of the Harrison entry and all the entries on that page are quite different to the handwriting and ink of the entries immediately following them and those of the three entries at the very commencement. It would almost seem as if nearly two pages had been left blank after the entry of the 19th May, 1664, for the remainder of the entries for that year and for 1665, and that these had never been filled in, until some one in 1672, entered the marriage of the Vicar of the parish, as an important event, at the top of one of these blank spaces. The remainder being still left blank gave ample room for the forger to practise his handwriting, and I am inclined to think that the last four entries on the first page and all those on the next page, including of course the Harrison entry, are in his handwriting.

A little further on is the entry of a marriage in December, 1667, now very faint and barely legible, in the margin of which has been added, in quite different ink and handwriting, the words “bye Public,” meaning by publication of banns. Then comes the following entry\* :—

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\* This very entry was produced in support of Mrs. Crossfield's case and also in the Court of Appeal in support of Mrs. Slagg's case, as being the entry of the first marriage of John Harrison (No. 2), and in both those cases (but in

eodem John Haryson of Lea Preston pish and } xx day  
 Jayne Moore of Normosse huius was maried the }

and another now scarcely legible, which has the word "eodem" added in the margin.

The ink of this entry and the handwriting differ very much from the first entry, which is clearly a genuine one. I am of opinion that this Harrison entry is a forgery, and that the words "bye Public" in the margin of the genuine entry were placed there by the same hand. These words and the words "eodem" (likewise), in the margin of these two entries, do not occur to any other entries on these and the other pages which I examined.

A page or two further on, is this entry :—

Aprill 1669

Richard Bond of Preesall and  
 Jane Garlick of Greenall  
 was mard xij day.

This is clearly an interpolation. The purple colour of the ink is very clear, and over the c there is the curious caret ^ seen in so many of these forged documents and entries. The r in Garlick is made like a modern r, quite different to the other r's on that and the subsequent pages.

In the Baptisms for the year 1668, there are several entries which have been touched up, and others which have a very suspicious appearance, amongst which are two Harrison entries.

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the latter only when it came to the Court of Appeal) it was alleged that he had by her an only son Richard, baptised at Poulton, 10th November 1668, and buried at Preston, 27th January, 1670, and that the said Jane Harrison had been buried at Preston, 13th November, 1668, three days after her child's baptism, and eleven months after her marriage. This was used as evidence to prove that John Harrison (No. 3) must have been the child of his father's second marriage.

The following entries of Burials in January, 1670-1, appear to me to be clearly forgeries :—

Richard sonn of Grace Harison of lea within Preston widdow was Buried	} xx day
Jenet wiffe of Laurence Singleton marshside was Buried the	

These x's are made exactly like the peculiar x's noticeable on the forged Bonds and in some of the forged Register entries. The ink and the handwriting differ from those of the entries on the same and the adjacent pages.

Some of the leaves of this Register have had something smeared over them and the smears appear to be only found in connection with entries relating to the family of Harrison.

The LYTHAM Register I have not personally examined, but the following entries, amongst others, have been pointed out by a gentleman who examined it a few years since, as presenting a very suspicious appearance.

1686. John the son of Richard Harrison of the Berks Westby was baptised the 8<sup>th</sup> of February.

“This entry has been touched up, the parchment appears to have been wetted, and the ink is of a different colour from the rest of the page. The parchment is much discoloured in a similar manner to the entries in the Poulton Register.”

1715. Richard son of James Harrison bapt. Jan. 14<sup>th</sup>

“This entry has been interlined between an entry of Dec. 26<sup>th</sup> 1714, and one of March \* 10<sup>th</sup> 1714, and is therefore in its wrong place. It is in altogether different coloured ink from the rest of the entries on the page, and the interlineation is quite plain. *This entry is not on the transcript at Lancaster.*”

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\* The year then ended in March, so that March would follow after December.

## CHAPTER V.

THE TRIAL AT LIVERPOOL, IN THE CHANCERY COURT OF THE COUNTY PALATINE OF LANCASTER, IN ST. GEORGE'S HALL, MAY 25th TO 28th, 1886, BEFORE VICE-CHANCELLOR BRISTOWE, AND A SPECIAL JURY.\*

Counsel's opening—Miss Bulcock's evidence—Mr. Jeans' evidence—Mr. Earwaker's evidence as to the forged documents, and tamperings with parish registers—Mr. Earwaker's cross-examination—Mr. Barton's evidence—The Ryley letters—Vindication of their genuineness—Mrs. Slagg withdraws her claim—Statement by the Attorney-General for the Duchy of Lancaster—The Vice-Chancellor's address to the Jury—The Verdict.

THE Trial commenced on Tuesday, May 25th, at 10 o'clock. Mr. O. Leigh Clare, Mr. J. K. Bradbury, and Mr. J. Paul Rylands, instructed by Messrs. W. D. Jeans & Co., of Warrington, appeared for the Barton and Freckleton claimants. The Attorney-General of the Duchy of Lancaster, (Mr. H. W. West, Q.C.) and Mr. W. B. Trevelyan, instructed by Mr. F. Whitaker of London, appeared for the Duchy of Lancaster. Mr. W. D. Rotch, and Mr. Ralph Neville, instructed by Mr. Charles J. Partington, of London, appeared for Mrs. Slagg; and Mr. P. Ogden Lawrence, instructed by Messrs. Whitley, Maddock, Hampson & Castle, of Liverpool, watched the case on behalf of the Rev. Archdeacon Harrison, of Canterbury.

Mr. Clare in his opening address to the Jury † gave a concise history of the case, and of the various trials, which had already taken place for the Harrison estates, since they had been taken over by the Duchy of Lancaster. Copies of carefully

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\* The trial was entitled "*Barton and Others v. the Attorney General of the Duchy of Lancaster.*"

† A verbatim report of the very able speech of Mr. Clare is given in the Appendix, pp. 85-145.

drawn up pedigrees of the Harrison, Barton, Freckleton, and Bulcock families were handed to the Vice-Chancellor and to the Jury, as well as to the members of the Bar, solicitors, and others interested in the case, and they proved of much service in enabling everybody to follow the various steps in the pedigree, as Mr. Clare referred to them.

After tracing the descent of the Bartons down to Mr. Thomas Cornall Barton, and the Freckletons and Bulcocks down to Miss Mary Jane Bulcock, and others (*see* Chapter III.), Mr. Clare referred to the crucial point in the Freckleton descent viz. whether Isabel Harrison married Ralph Freckleton or whether she married Thomas Weeton. Although Ralph Freckleton had undoubtedly a wife Isabel, yet it was alleged that this Isabel was an Isabel Harrison "of the Chain," (some old houses near Preston being known as the Old Chain Houses), and certain entries on the transcripts of the Penwortham Registers, and certain Marriage Licence Bonds, were intended to be relied upon to prove this suggestion. He had no hesitation in saying that these entries and these bonds were undoubtedly *forgeries*, and that he hoped he would be able to show to the satisfaction of the Jury that this was so. The Penwortham transcript for 1650 (so altered from 1640), was then dealt with, and the various proofs which would be given that it had been tampered with, were detailed at length. The transcript for 1672 and the three Marriage Licence Bonds were then brought to the notice of the Jury, and the evidence upon which they were proved to be forgeries was gone into at considerable length, causing much sensation in Court. The Weeton entries were then examined and their untrustworthiness pointed out. Mr. Clare then dealt with the proofs of the Freckleton and Barton pedigrees. The "Ryley Letters" were then read by Mr. Bradbury, and special attention was called to the one in which John Ryley, in writing to Elizabeth

Harrison, states, "so to let thee know how I com to call thee cussen, I married Henry Freckleton's sister Margaret," and adds, "Brother Freckleton gives his servis to thee."

Miss Mary Jane Bulcock was then examined as to her parents' and grandparents' names, and her brothers and sisters, &c. Various deeds, proving successive steps in the Freckleton pedigree, were also put in. The witness stated that the deeds produced as belonging to her, had been in her custody for upwards of 23 years, that she had them from her mother, who had them from her father, who kept them in an old box.

Mr. William Dampier Jeans, solicitor, of Warrington and Manchester, was then examined. He stated that he was formerly with Messrs. Marsh and Barratt, of Warrington, the solicitors of Richard Harrison, the intestate, at the time of his death, and that he remembered a large box full of documents being brought from the latter's house, after his death, to Marsh and Barratt's office, and amongst these was the bundle of Ryley Letters now produced. He also identified the various documents, which he had found in Miss Bulcock's possession, by means of which, and others not now produced, he had been enabled to trace the pedigree of the Freckleton family back to the time of Henry VIII. After the decision in Horner's case he took steps to see if the descendants of Ellen and Isabel Harrison could not be traced, as if so, he knew that they would have a prior claim to Mrs. Slagg. He also stated that he had found no references in any deeds to show that Thomas Weeton had married Isabel Harrison, of the intestate's family. In his cross-examination by the Attorney-General, he said that he had heard of the entry of the marriage of Thomas Weeton and Isabel Harrison, of Lea, in the Preston Register, under date 5 Feb., 1680-1, but he did not believe in its genuineness. In his cross-examination by



Mr. Rotch the witness stated that he had inserted advertisements in the local papers with a view to ascertain the descendants of Ellen Barton.

This concluded the first day's proceedings.

The trial was resumed on Wednesday, the 26th May, at 10 o'clock, the same counsel appearing.

The Attorney-General said he desired to call attention to some very curious discrepancies in the copies of the Ryley Letters which had been supplied to the Duchy, in three of which, dated apparently in 1700 and 1701, there are references to the death of John Harrison (the father of the John Harrison who married Elizabeth Walmsley), an event which, it was well known, did not take place till 1706. Mr. Clare pointed out that the date, which had been copied as 1700, might as likely as not be 1706 or 1708, as the upper part of the last figure was quite gone, by reason of a small hole where the seal had been placed; and the Vice-Chancellor also said that the date of one of the other two letters, which had been copied as 1701, appeared to him to be clearly 1707. Mr. Jeans was cross-examined as to the way these letters came into his possession, and he stated that he had subsequently joined Messrs. Marsh and Barlatt in partnership and so had succeeded to Richard Harrison's papers.

Mr. John Parsons Earwaker was then examined by Mr. Clare. He stated that he had been for many years engaged in investigating old records, Registers, &c., relating to matters of interest connected with Lancashire and Cheshire, and had personally searched very many Registers, and frequently examined documents in the Probate Courts and the Diocesan Registries at Chester and elsewhere. He explained that the transcripts of the Parish Registers were, as a rule, made at the end of each ecclesiastical year and after comparison with the originals, were signed by the Rector or Vicar of the parish,

and certified to be true copies, and then forwarded to the Bishop's Registry at Chester. The original Registers of Penwortham were destroyed by fire in 1856, and the transcripts, now preserved at Chester, are therefore particularly valuable. The transcript now dated 1650, he said should be 1640, the 4 having been scratched out and the figure 5 substituted, and that if the parchment was held up to the light, it was clear that there had been an erasure at that spot. The handwriting of the entries of the Burials on that piece of parchment was the same as that on the parchment, containing the Baptisms and Marriages for 1640, and it was his opinion that this piece, containing the Burials, had formerly been stitched to the other, and he shewed to the Jury that the upper part of the transcript (containing the Burial entries) where the holes for the stitches should have been, had been cut away. There were several peculiarities (which the witness illustrated on a large slate) which helped to show that both the parchments belonged to 1640. Thus the entries of Baptisms are headed

..... in this yeare Año  
dñi 1640.

The entries of Marriages are similarly headed,

Mariages in Año  
dñi 1640 :

And similarly the Burial entries are *now* headed

Burialls in Año  
dñi 1650

The 4 of 1640 having been altered to 5. The handwriting is the same in each case and peculiar. The two parchments also

are exactly the same width throughout, and the fold in the smaller one (now headed 1650) corresponds with the fold in the larger one, dated 1640.

The VICE-CHANCELLOR: "The Jury must see that. It does seem peculiar that the two folds agree."

Mr. Earwaker was then examined as to the five entries of Baptisms, headed "Christnings in December 1650," which are placed at the bottom of the burial entries, and he stated that in his opinion, these entries were not contemporaneous with the rest of the writing on that piece of parchment, but had been put on the transcript at some subsequent period. He stated that he was examining the bundle of the Penwortham transcripts for the first half of the 17th century, and his attention was caught by the similarity of the handwriting of these 5 entries and the colour of the ink, to that on the back of the transcripts for 1672, which he had recently been looking at, and it was only on reading through the entries that he found there was one relating to the Harrisons among them. On examining these closely, he found several of the letters, particularly a peculiar J (a broken-backed J, of this form J), identical, and he was of opinion that these 5 entries and those on the transcripts for 1672, twenty-two years later, had been written by the same person. The entries on the back of the Penwortham transcript for 1672, had several peculiarities. The handwriting and the ink differed entirely from the hand-writing and ink used on the face of the transcript, and moreover, the ages of the persons married were given, as well as the name of the surrogate who granted the licence, (*see* pp. 33 and 46). Mr. Earwaker said that in his experience he knew of no original Register, nor any transcript, giving the ages of the persons married, and they were not given on the front of this very parchment, where eleven marriages in the same year were entered. The word "paro" for "parochiæ" (of the

parish,) was also pointed out as a wrong and meaningless abbreviation. (See page 47.)

The evidence given on pp 40-43 as to the burials on the transcript now dated 1650, having taken place in 1640, was then gone into, and the witness then gave evidence as to the Marriage Licence Bonds being forgeries, on the various grounds already referred to (*see* pp 32-39). After a short adjournment for lunch, the Registers of Kirkham and Preston were produced and Mr. Earwaker was examined as to the various entries already referred to (*see* pp 48-57), which he stated in his opinion to have been tampered with or fraudulently inserted, on the various grounds there set out. The Registers were handed to the Vice-Chancellor and then to the Jury, and in many instances, the way in which it was clear to everyone in Court that words and names had been erased, caused much astonishment. At one point the Vice-Chancellor observed, "It will be important for the Jury to consider the fact that, there being certain erasures in a book, and there being certain pages cut out of the book, and there being missing transcripts at or about the same time, whether that is not all part of one whole, which shows that the whole thing has been so tampered with, and dealt with, that a fictitious set of entries have been raised and genuine ones abstracted." The peculiarity of so many of the inserted Weeton entries being at the bottom of a page, where there would naturally be more space left than elsewhere, was also commented on.

Mr. Earwaker was then cross-examined by the Attorney-General for the Duchy, and his attention was directed to a Weeton entry in the Kirkham Register, under date 10th August, 1720, "John Laytham, Eccleston Booth, Leyland parish, aged 31 and Alice Weeton de Westby, 29, married by Licence." This he said he had not seen before, but, in his opinion, it was clearly a forgery. The handwriting and ink

differed entirely from those on the pages open at that place, and were similar to the handwriting and ink of the other forged entries. It also came in "the usual place" for such entries, the bottom of a page. There is no transcript at Lancaster for this year. An entry in the Preston Register, under date 5th December, 1653, was then shown to the witness. It reads as follows:—

"December, 1653, Marriages. Richard Hornby, of Newton, in the parish of Kirkham, yeoman, aged above 40 years and Elizabeth Walmsley, of Elston, in this parish spinster, with consent of Christopher Walmsley, her father, were married the fifth day of December 1653 and in the presence of several creditable witnesses, were published and declared then to be man and wife, being solemnized according to the form of the late Act of Parliament, by me Edward French, Mayor. Witnesses, Thomas Walmsley of Elston, Christopher Parkinson of Kidsnape and William Judah (?)"

This entry Mr. Earwaker said was a perfectly genuine one, and that it was a marriage performed under a special Act of Parliament, passed in the time of the Commonwealth, and he added "I will also say this, I have certainly examined a good many Registers and I have never seen an entry of that kind, in which even one person's age was given, before this one. It is quite an interesting entry to me."

The Attorney-General, "I never knew evidence given more fairly than you have given yours throughout."

The witness was then examined as to whether the entries he had described as forgeries, and as having been tampered with, had not been touched up in order to keep them fresh, and that they were therefore genuine entries touched up. This the witness said he could not agree to, although in some of the entries there were indications that the writer, whoever

he was, had gone over some of the letters twice. Many of the entries above and below those, which had been tampered with, had however, been touched up, so as to make the difference of ink not so apparent, as it otherwise would have been. Various erasures and insertions in the Preston registers for 1645, 1648, and 1651 were then shown to the witness, who was cross-examined upon them, and he pointed out how in these entries, the ink although apparently not the same in all of them, differed distinctly from the ink used in the other entries on the same pages. Some of these entries had peculiarities in the form of the letters, which the witness showed on the slate, and which he recognised as the same as those in the other entries he had previously been examined upon, and in the other forged documents, and he gave it as his opinion that they were clearly forgeries, and probably by the same hand which forged the others.

Mr. Bradbury then put in certain certificates proving the Barton pedigree and various wills, &c., were produced from the Registries of Chester and Somerset House. The original will of Henry Barton, of Woodplumpton, dated 4th July, 1715, was, at the request of the Vice-Chancellor read out by Mr. Earwaker, no certified copy being in Court. The Court then adjourned.

The trial was resumed on Thursday, May 27th, at ten o'clock, the same counsel appearing.

Mr. Jeans was re-called, and stated that he was responsible for the Freckleton pedigree, sent in to the Duchy, and that when he sent it in, it contained all the information he was possessed of up to that time. Further searches brought fresh information to light, and modified some of the conclusions, at which he had previously arrived. The Attorney-General referred to a certificate of an entry in the Poulton-le-Fylde register, purporting to show the marriage of Thomas Hesketh

of Poulton, and Isabel Barton, with a view of showing that that would account for Ellen Barton (the widow of Henry Barton) calling Thomas Hesketh "her brother-in-law." Mr. Jeans said he felt very suspicious as to the genuineness of such an entry, if it existed, but he would telegraph for the original Register to be produced in Court as soon as possible.

Mr. Earwaker was re-called and examined by Mr. Clare as to the identity of the signatures of John and Elizabeth Harrison, attached to some of the Ryley Letters, and their undoubted signatures to certain deeds. The entry of the burial of Isabel Freckleton, at Kirkham, 25th June 1688, the witness pronounced to be a forgery, inserted in the register in "the usual place," the bottom of a page. With regard to the five baptismal entries on the Penwortham transcript, now dated 1650, Mr. Earwaker said he wished to call attention to the fact that these professed to be five entries in the month of December, 1650. But Penwortham being a small parish, it was not customary to group the entries together in months, as was done at Preston, which was a large parish, and he had not met with a single instance of it, on any of the Penwortham transcripts, and he had examined the whole of them, between 1608 and 1700, very carefully. Then with regard to the entries on the back of the transcript for 1672, he could not understand how they could have been made at the time, unless there had been a formal application made by the clergyman and churchwardens, and the transcript had been returned to Penwortham in the custody of some official, and if so, one would have expected to have found the attestation of his having been present and witnessing the entries being made, but no such attestation existed.

Mr. Earwaker was then cross-examined by Mr. Rotch, who laid special stress on the fact of one of the Ryley Letters bearing the old Liverpool postmark, contending that such

a postmark was probably not genuine, but the witness said that as far as he could judge, it was perfectly genuine. The spelling of the word Liverpool at that period—1711—would vary with the education or want of education of the writer, but a stamp marked “Liverpool” would probably be genuine. Various slight differences between the several letters in the signatures of John and Elizabeth Harrison, to the Ryley Letters and those to the deeds, were pointed out by Mr. Rotch, at considerable length, but the witness, whilst admitting that these slight differences existed, still gave it as his opinion that they were the signatures of the same persons. As the Vice-Chancellor pointed out, John Harrison’s signature was “a very curious and a very characteristic one,” and his Honour subsequently said “All these minute criticisms of writing are not to me of much value, it will be for the Jury to decide.” Mr. Rotch protesting that these Ryley Letters related to another John Harrison altogether, Mr. Clare observed: “Well then there must have been two John Harrisons, two Elizabeth Walmsleys, two quarrels, and two reconciliation deeds, all happening at the same time; the thing is impossible!”

After the adjournment for luncheon, Mr. Rotch said that he had stated in the morning, that he did not contend that the Ryley Letters were forgeries, but that now “circumstances have come to our knowledge which have led us to make certain enquiries, which will show, I think, that these letters are complete forgeries”! Mr. Earwaker’s cross-examination was then resumed, and he stated that he had never read any of these letters, but he had been shown the packet and had seen the entry in one of them, in which Ryley stated he had married Henry Freckleton’s sister. He was further examined as to the entries in the Kirkham and Preston Registers, and the Marriage Licence Bonds. With regard to the suggestion that the news of the death of the Bishop of Chester would take some time to become



known, the witness said that there was in existence the diary of a resident in Manchester, Henry Newcome, who on the 22nd November, 1672, only three days after the Bishop's death, writes as follows:—"I received the sad news of the death of the learned, worthy, pious and peaceable Bishop of Chester, Dr. John Wilkins. He was my worthy friend." The death of the Bishop would be sure to be soon known to all the clergy in the diocese. Mr. Earwaker also explained that it would not have been difficult in times gone by, for any person, who had by frequent visits gained the confidence of the officials, to secrete one parchment out of the bundle of transcripts, which would be produced to him, and to take it away and after adding or altering anything he liked, to replace it in the same bundle on another occasion. It would not be possible to make any entries on the transcript in the presence of the clerks in the office itself, but it could easily be done, and no doubt was done, in the manner above suggested. Searchers for antiquarian purposes were put upon their honour, as it was impossible that there could be a clerk to watch the actions of every searcher. At the present time, unless the person was well known, only one document would be produced at a time.

Thomas Cornall Barton then gave evidence as to his parentage, and the names of his grandfather and his other relations as far as his personal knowledge extended.

Mr. Robert Procter Woodhouse said he produced the Preston Registers, of which he was the custodian. He stated that when it was known that an owner was wanted for the Harrison estates, large numbers of people came to search the Registers, and certain people came very frequently, and that to these people, whom he got to know, the Registers were produced and allowed to remain in their custody for hours without anyone else being present. This was many years ago; now he was

always present himself when the Registers were produced to anyone.

Mr. Jeans was then examined by Mr. Bradbury, and cross-examined by the Attorney-General as to the identity of Henry Barton, of Woodplumpton, with Henry Barton, of Lea, and he gave his reasons for believing them to be the same persons. Woodplumpton is only a mile or so from Lea, and he believed that Henry Barton removed there from Lea, before the birth of his third child, Margery. Various certificates proving the different steps in the Barton and Freckleton pedigrees were then put in.

Mr. Bradbury\* then addressed the Jury on the question of the Ryley Letters, and particularly the three letters said to be dated 1700 and 1701, which referred to the death of John Harrison, an event which did not take place till 1706. In the first of these there is a hole where the upper part of the last figure was, and it was as likely to be 1706 as 1700. The second letter was clearly not 1701, as carelessly copied, but 1707, the second and fourth figures being exactly the same. The third letter is, however, dated clearly enough 11th November, 1701, but it is perfectly certain, from the contents, that that date must be an error, and that the last two figures have been transposed and that they should read 1710. In that letter the writer, Elizabeth Harrison, most distinctly refers to a letter written in 1710, and answers it in detail, and also states that it is nine years since she and her husband separated, and that her expenses in those nine years had amounted to £150. It is in evidence that their separation took place in the year 1701, hence it is clear that this letter must have been dated 1701 (the writer being a very uneducated person) in mistake for

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\* Mr. Bradbury's powerful defence of the genuineness of the Ryley Letters, and his summary of the evidence in favour of the plaintiff's case, will be found in the Appendix, pp. 146-159.

1710. As to the letters being forgeries, they were in existence 20 years ago, long before any question arose as to Isabel's marriage and for what object could they possibly have been concocted, and by whom, or in whose interest? Mr. Bradbury then dealt with the question of the identity of Henry Barton, of Woodplumpton, with Henry Barton, of Lea, clearly showing that they were one and the same person. He also showed how Ellen Barton's will calling Thomas Hesketh her brother-in-law, and the fact of John Ryley marrying Margaret Hesketh, whom he calls the sister (that is the half-sister) of Henry Freckleton, tied all the members of the Freckleton, Hesketh, and Harrison families together in a manner consistent with the pedigree put in, and which could be explained in no other possible way.

The trial was resumed on Friday, the 28th May, at 10 o'clock, the same counsel appearing.

Mr. CLARE said: "If your Honour pleases, I think it will not be necessary this morning to proceed with this case. I have had some conversation with my friend, Mr. Rotch, and he has informed me that they have considered these letters, and he is prepared now to say, what he has to say upon them, but I understand from him what I certainly did not know—that the letters bear a watermark, conclusively proving that they are of the proper date, and establishing the letters beyond all doubt. Under those circumstances my friend informs me that he is unable to carry on his case any further and he is willing at once to assent to a verdict in favour of my clients. I understand also from the Attorney-General that that is a course which he will not oppose. I think after the evidence we gave yesterday—"

The VICE-CHANCELLOR: "It was very strong."

Mr. ROTCH: "Your Honour may recollect that when you came in after lunch yesterday, I said that facts had come to

our knowledge, and we had seen things in the interval, which made us doubt the authenticity of these letters. I may now state what the two points were, upon which I made that statement: one was the postmark "Liverpool," the other was the watermark we discovered in one of the letters. We have prosecuted our enquiries as far as the postmark "Liverpool" is concerned, and we are unable to dispute the authenticity of the letters on that ground. On the other hand the watermark, as far as I can see, is right. Under those circumstances I do not think it is right to raise here a question of forgery or anything of that kind to throw out these letters. We have made enquiry upon the two grounds, and our enquiries have satisfied us. Being satisfied upon those points I feel that it is almost useless to keep up the contention, because after all it is asking the Jury to assume a very slight gap indeed, my friends have proved their case except that very slight gap. Under those circumstances Mrs. Slagg does not intend to offer any further resistance to the claim. It is idle for us to trouble about the Freckletons, if they have established the Barton claim, either of them is quite sufficient to get rid of Mrs. Slagg's claim."

The VICE-CHANCELLOR: "Then Mr. Bradbury's summing up about Henry Barton and Ellen Barton, of Lea, and Henry and Ellen Barton of that place [Woodplumpton] so close to Lea, was very strong, I confess. I do not know what effect it had upon the Jury."

A Juror: "It was very strong."

The ATTORNEY-GENERAL: "It had a strong effect upon me. Perhaps Sir, you will allow me to address the Jury upon the course I propose to take."

The ATTORNEY-GENERAL: "May it please your Honour, Gentlemen of the Jury. I daresay you have had some difficulty in understanding what the position is, which I have held

during this enquiry or investigation on the part of Her Majesty, and I wish therefore to make it clear to you, with the permission of the Vice-Chancellor, what was the position that I occupied and the course I now propose to take. I daresay that most of you are aware, that all land in this country is held from the Queen, and if no person is entitled to land other than the Queen, the Queen becomes the owner of it. In the County Palatine of Lancaster, the rights which, in other parts of the country generally belong to the Queen in right of the Crown, belong to the Queen in right of her Duchy of Lancaster. In 1863, this intestate, who seems to have been able to perform that, which was his dying wish to the utmost, viz., to prepare an enormous amount of litigation (which has extended over 23 years) by not making his will, and by collecting every kind of document he could connect with his estate and with his family affairs—he died in 1863, and his somewhat considerable estate was left without an owner, and I think I shall not be wrong in saying, that the Duchy was not very anxious to take possession of the land, but it felt that it was a public duty not to let this land go to waste without a lord at all, and by Inquisition of Escheat which was held in 1866, the Duchy became entitled to the land. From that time down to the present moment, the Duchy has been most anxious that this land should get into the right hands. Soon after the Inquisition was held, the Duchy received a vast number of claims, which it investigated, and among those claims, of which you have heard allusion made in the course of this investigation, were claims by persons of the name of Porter and Nickson, and by a person of the name of Horner, and by persons of the name of Crossfield, and by Mrs. Slagg. Now the Duchy were not by any means satisfied that Porter and Nickson were the right owners, and they, without the intervention of other parties, took upon themselves the

burden of discussing the question of Porter and Nickson's title and defeated Porter and Nickson. Then they dealt with the question of Horner's Petition of Right ; and during the investigation which took place upon that enquiry they dealt with a claim made by a person of the name of Crossfield. Mrs. Crossfield failed upon the investigation of her claim to make out a title. Horner failed. Mrs. Slagg—and I for one sympathize very much indeed with the position of Mrs. Slagg, and her representatives upon the present occasion—Mrs. Slagg, by superior diligence, succeeded, not in establishing her own title, which she might have been able to do perhaps on another occasion, but in dis-establishing Horner's title, which left the way clear for her to establish her title, should no other claims intervene between Horner and her. After the investigation of Horner's case, which went up to the House of Lords, Barton and Freckleton came in. Now I will not explain all the reasons that induced Her Majesty, under our advice, to allow these two to come in so late ; but anxious as we were that the proper parties should be in possession of this estate, we permitted Barton and Freckleton to intervene for the purpose of seeing whether they were the persons entitled.

“ Now I came here, not only in order to see that justice was done to the parties, but also on behalf of the Duchy to take care that the estate went to the proper person. I also had in my mind to take care to watch over that, which I consider of great public interest, viz : an investigation into these different books and papers, which were questioned, upon which I offer no opinion at the present moment, whether any sufficient reason has been alleged to lead any person to believe that those entries in registers and elsewhere were well founded or not. The duty, which I have been performing for the last two days, I think you will have been a little deceived about. It may have appeared from my cross-examination of

Mr. Jeans and Mr. Earwaker and these other parties that I was here as partisan. I was not here as a partisan at all. I should have dealt exactly in the same way with Mr. Rotch's case, Mrs. Slagg's case, when it came into Court, if it had come into Court. I only wish to show to you that I have been actually impartial in the matter. I daresay you did not quite see the effect of it, because it requires great experience to see the effect of these things, when they first come before a Jury. But when I called attention to the difficulty that had arisen upon the Ryley Letters, I did so certainly, not with any hostile intention towards Mr. Jeans' case; what I did there was this: I gave Mr. Jeans an opportunity of explaining a discrepancy which certainly was startling at the first moment. I did so because I wished the truth to come out, and eventually it turned out for the benefit of my friend Mr. Clare's clients, because Mr. Rotch would have been perfectly justified in saying nothing about the startling discrepancy in the dates, which Mr. Bradbury dealt with so effectually yesterday. I do not say whether he disposed of it, though I think personally he did. It was my duty, and I think I performed it, to call attention to that discrepancy, in order that it might not be started at the end of the case as a surprise upon Mr. Clare's clients, which no doubt Mr. Rotch, in the performance of his duty as an advocate, would have performed efficiently by waiting till the end to shew what that discrepancy was. There was another point to which I called the attention of the Court, which was this: that a defect existed in Mr. Jeans's case as presented upon the petition to us, to allow him to come here to traverse that Inquisition, to which I have already alluded, viz., he stated in that petition that the death of Isabel Freckleton was in 1688, and also he stated in that petition that the *omissiones in conjugis nuptiæ* (which he tried yesterday to throw a great deal of discredit upon) were

documents upon which he relied. I called upon Mr. Jeans and Mr. Earwaker, by my cross-examination, to shew how it was they had altered their case. In so doing it may have appeared to you that I was casting blame upon them. In the result I cast no blame upon them. I gave them an opportunity of showing how it was that they had changed their front. It was quite proper, if they found out that they had put in what was not right, that they should change it. I flatter myself that I gave Mr. Jeans, and Mr. Earwaker a clear opportunity, by my cross-examination, of showing how it was that those changes took place. I therefore think that I was the person who brought out that very extraordinary fact for the benefit of both parties, viz., the birth of that other Isabel Harrison, which was certainly a most remarkable thing. There is no doubt that Isabel Harrison, daughter of George was born exactly a year after the alleged birth of Isabel, daughter of John and Margery. It is one of those curious cases which happen, though not so curious as it might appear at first sight; because really the number of Harrisons in these different Registers of births, deaths and marriages, are as great as the number of births, marriages and deaths of Joneses in Wales, or Campbells in Scotland. Therefore these matters do require an enormous amount of investigation in order to get at the truth.

“Now I have troubled you for these few minutes, because I think I am performing a public duty in showing that the Duchy here has acted as a public trustee, and I hope with fairness and propriety to all parties. I came here to see that the proper parties should get into possession of this estate. We do not wish to hold the estate as it does not belong to Her Majesty. I trust that I have performed that duty impartially, although only one side was heard, and although in opposing that side you may think I was acting as a partisan. As I



have said before, I should have done the same to the other side, if they had gone into the witness box. I have pointed out to you what I consider to be the justification of the course adopted by the Duchy in this case. If Mr. Rotch has carefully considered the case made by Barton and Freckleton, and feels that he cannot resist that claim, that is a strong argument why I should not resist it any further, especially having heard, as the Vice-Chancellor kindly called my attention to just now, the very able argument of my friend Mr. Bradbury, as to the identity of the Bartons of Lea and Woodplumpton, which at first struck me as very defective indeed. Having also explained perhaps satisfactorily to you the discrepancy of the dates in the correspondence, it would be no part of that duty which I had taken upon myself, viz., to hold the scales even between these parties, to pursue this enquiry any further. All I do upon this occasion is this ; that Mr. Rotch finding that he cannot uphold his case against the other parties, therefore I say nothing against your finding a verdict in accordance with the direction of his Honour."

THE VICE-CHANCELLOR: "Then Gentlemen of the Jury, your task is somewhat lightened, and I think I may, in addition to what the Attorney-General has said, say that so far as the Court can express sympathy in a matter of this kind, some sympathy must be felt for Mrs. Slagg, who had so nearly succeeded in obtaining possession, but having regard to what has been proved before you, it would seem that Mrs. Slagg has exercised a wise discretion, as might have been expected from the able Counsel, who act for her, in admitting that her claim, which can only come into existence on the failure of the descent of the issue of John Harrison and Margery Brown, is in fact displaced by the evidence, which has been produced to you on the part of the descendants of Ellen Harrison and Isabel Harrison, two daughters of John Harrison and Margery Brown.

“Now the issue that you had to try was, and is, whether Thomas Cornall Barton, Alice Ann Forrest, and Louisa Emily Forrest, Elizabeth Dobson, and Mary Jane Bulcock, who represent the two sets of the descendants of Ellen and Isabel, are, as heirs of Richard Harrison, the intestate, entitled to these lands, tenements, and hereditaments in the Inquisition mentioned. Gentlemen, you have heard the evidence, you seem to me to have paid the greatest possible attention to it, you have seen and have had an opportunity of comparing all the documents, dates and names. I must say also, you have had the opportunity of seeing the way in which these Registers, undoubtedly in many instances, have been tampered with. We cannot doubt that fact, and you have also had brought before you evidence of a very peculiar kind with reference to these so called Ryley Letters. It is a most singular circumstance that those letters passed and that they should have been kept, because after a reconciliation, it might well have been that all letters, shewing differences, might have been destroyed, but singularly enough these letters are kept. They are kept together—they are kept in the hands of the intestate and they are kept in his hands, as I think you must hold, coming direct from the John Harrison, who married Elizabeth Walmsley, who was the predecessor in title of the intestate himself. Then you have the letter containing the singular circumstance of Ryley speaking of himself as cousin, and detailing how he is cousin, being the relation, by marriage, of Henry Freckleton, the son of Isabel Freckleton, which is really the great point in question. Then you have, as to the Bartons, one point which at one moment seemed to create some difficulty, namely, the fact that Henry Barton, of Lea, and Ellen Barton of Lea, might not be the same people, apparently as the people called Henry Barton, of Woodplumpton, and Ellen Barton, of Catforth in

Woodplumpton ; but you have several singularly corroborative facts that they are the same people, because, first, you do not find, anywhere, two other people named Ellen and Henry Barton, you have none but those two. But, secondly, they have three children, the children accord in name, and the dates of the births of the two children accord with what would be the history of the family. Thirdly, you have the name "Margery" brought in, being a grandchild of Margery Brown, above referred to. The mere circumstance of a person being described as of one place at one particular moment may well mean that he was at that place at that time and that he subsequently went a short distance, within a couple of miles, and then described himself as then of the latter place."

The ATTORNEY-GENERAL: "There is a curious fact that would have been proved afterwards, which we have discovered, that Margery the daughter of Ellen and Henry Barton, of Lea, was baptized at Woodplumpton."

The VICE-CHANCELLOR: "That is still further corroboration. With these facts before you, Gentlemen, it now remains for you to find your verdict in accordance with the evidence you have heard. It will be necessary to find a verdict, because that, as the Attorney-General has pointed out, will give a title to these persons named in the Inquisition, and will, so to speak, relieve the Duchy from any further difficulty, by finding the heirs of the intestate Richard Harrison. It will be for you to find a verdict upon the Inquisition."

[The Jury considered their verdict.]

The VICE-CHANCELLOR: "Gentlemen of the Jury, are you agreed upon your verdict?"

The FOREMAN of the Jury: "We are."

The VICE-CHANCELLOR: "Do you find for the parties named as claimants, viz., Thomas Cornall Barton, Alice Ann Forrest,

Louisa Emily Forrest, Elizabeth Dobson, and Mary Jane Bulcock, who pray judgment that the Inquisition may be quashed and the lands given over to them, do you find for them as claimants on the Inquisition?"

The FOREMAN of the Jury: "Yes."

MR. CLARE: "Under those circumstances that being the verdict of the Jury I should ask for an order of amoveas manus. I have no doubt that the Attorney-General will not object."

The REGISTRAR: "That is made in the Chancery of the Duchy, not here."

The VICE-CHANCELLOR: "I have no power to do that. The writ of amoveas manus runs from the Chancery."

(MRS. SLAGG'S CASE WAS THEN CALLED ON).

THE REGISTRAR: "No one appears in that case."

The VICE-CHANCELLOR: "No one appearing, enter a nonsuit."

(ARCHDEACON HARRISON'S CASE WAS THEN CALLED ON).

THE REGISTRAR: "No one appears in that case."

THE VICE CHANCELLOR: "No one appearing, enter a nonsuit  
Gentlemen of the Jury, you are now discharged."



## APPENDIX.

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### MR. CLARE'S OPENING SPEECH.

MAY it please your Honour—There are two traverses, and having had some words with my friend, the Attorney-General, I propose to take Barton's traverse and Freckleton's traverse together. There are two lines: the Barton line and the Freckleton line. I propose to take the two issues together, but I shall have to deal with the pedigrees separately.

The VICE-CHANCELLOR: Is there an issue in the case of Freckleton?

The ATTORNEY-GENERAL: The same issue, but they claim through heiresses.

The VICE-CHANCELLOR: I have no record in the Freckleton case.

Mr. CLARE: It is in the one record, only the Attorney-General asked me whether I was going to take the two cases together or separately. They claim through two daughters of John and Margery. I propose to take the two pedigrees separately; but they are so interlaced that one must deal with the case as a whole.

Gentlemen of the Jury—The question which you will have to try in this case is this: One Richard Harrison, who died in 1863, at Warrington, died possessed of a considerable quantity of both real and personal estate. With the personal estate we have not anything to do, because that has been

distributed amongst his next of kin, and according to the law of this country it does not follow that because certain persons comprise the whole of the next of kin, that they comprise the heir-at-law amongst them. Richard Harrison died intestate; and I think I shall have no difficulty in putting before you evidence that shews that he was descended from John Harrison, who married Margery Brown about the year 1636, but the exact date is not material.

Amongst the persons who are before you to-day is the Attorney-General, who represents the Queen as Duchess of Lancaster, who is now in possession of the property under these circumstances. After Richard Harrison's death it was not known who was his heir; and you will see when I come to go into the question of pedigree, that it is only within the last few years that anybody has got anywhere near proving himself to be the heir of Richard Harrison; consequently, the property not being in the hands of any person who was really the owner, the Crown came into possession. A Commission was issued by the Duchy to certain Commissioners to try the question whether Richard Harrison died leaving any known heirs. The return on that inquisition being that he died without leaving any known heirs, the Queen, in right of her Duchy, gets into possession, and she is in possession to this day.

My friends Mr. Rotch and Mr. Neville represent Mrs. Slagg, who is a claimant, and she claims in this way. According to law the heir may be traced either through the paternal ancestors or through the maternal ancestors; and one rule of law is this: that if you have to trace through the maternal ancestors, those who are descended from the more remote maternal ancestors are to be preferred to the nearer maternal ancestors.

Now, I suppose that a great number of persons have tried

to prove their heirship to Richard Harrison with a view to getting this property, which is of considerable value. From time to time various claims have been made, and amongst others a claim was made by one William Horner, who claimed through the grandmother of Richard Harrison; but the ancestor through whom he claimed was not so remote as one Ann Procter, who was an ancestress of Richard Harrison several generations back, and before the ancestor through whom William Horner claimed. William Horner came forward, and he was on the point of making out his claim, when the Duchy, which is only interested in seeing that the right persons entitled to the property get possession of it, heard of Mrs. Slagg and brought forward Mrs. Slagg, the result of which was that Mrs. Slagg intervened in the action brought by William Horner, and she established undoubtedly that she was descended from this Ann Procter, and that Ann Procter was a more remote ancestor than the ancestor through whom William Horner claimed. However, it is no part of my case to-day to go at all into the question of Mrs. Slagg's pedigree. I thought that the Duchy brought in Mrs. Slagg, but the Attorney-General tells me that as a matter of fact she was brought in by the Crown.

Richard Harrison had two properties; he had a property in Cheshire, which is not the subject of this enquiry at all, and in that the Queen was interested in right of her Crown, not in right of her Duchy; the other property is that in which we are interested to-day.

Now, in the course of Horner's proceedings, as I have said, Mrs. Slagg, I think I may fairly say, established her descent from Ann Procter, and you will probably hear some discussion between us as to what was the effect of the finding that was made on the enquiry in Horner's case; but that is a matter of law, and will be more for his Honor to decide than for



you gentlemen of the Jury. The sole question which was left to the tribunal—which was a Judge in chambers—in Horner's case to decide, was the question whether Horner was the heir-at-law or not; and in the course of that case Mrs. Slagg, with a view, of course, of shewing that Horner was not the heir, brought in and proved satisfactorily, I think, her own pedigree; and of course, from what I have told you, if Mrs. Slagg established her case as being descended from a more remote maternal ancestor, that would have the effect of displacing Horner. The matter was left by the Judge to the Chief Clerk, and although it was only left to him to find whether Horner was the heir or not, the Chief Clerk made a finding that Horner was not the heir and that Mrs. Slagg was. My clients were not parties to that litigation at all, and I think the Attorney-General will agree with me in saying, that neither my clients nor the Crown, nor the Queen in right of her Duchy, are prepared to admit that that was a finding which bound anybody, that is to say, either the Crown or ourselves.

Now, in the course of that enquiry, the matters that it is my duty to-day to bring before you, were not investigated at all. There was no investigation as to whether there were descendants of the paternal ancestors of Richard Harrison living; and the case that I shall have to present to you is this: that even if Mrs. Slagg is, as I have no doubt she is, descended from Ann Procter, Ann Procter being a maternal ancestor, she can only take possession, subject to proving satisfactorily that there are now living no descendants of paternal ancestors of Richard Harrison. I am now coming to that which is, I think, common ground between my friends and myself.

Richard Harrison was the son of one John Harrison, who was a son of James Harrison, who married one Ann Richardson, and it was through Ann Richardson's father, John

Richardson, that Horner claimed. James Harrison was the son of John Harrison, who married one Elizabeth Walmsley; and you will see, when I go into the details of my case, that unfortunate differences, which were ultimately healed over, took place immediately after the marriage of John Harrison and Elizabeth Walmsley, and those differences between John Harrison and his wife will play a very important part in this enquiry.

Your Honor, it might be convenient if we supplied a copy of this pedigree to the Jury.

The VICE-CHANCELLOR: Certainly. I did not follow you in your last remarks, Mr. Clare.

Mr. CLARE: I was tracing the pedigree upwards, Richard Harrison was the intestate.

Mr. NEVILLE: Of course the Jury will understand that this pedigree is put in by my friend as part of his case.

Mr. CLARE: You will understand, gentlemen, that we have not been breaking each other's heads. This has been in litigation now for years and years, and it is very desirable to bring the whole thing to an end. Of course my friends, equally with myself, are anxious to solve the difficulties that have to be solved in this case. I do not want to put anything before you, for you to imagine that what I am putting before you as a matter of convenience, is proof at all. I am merely putting this pedigree before you in order that you may understand my statement, and the facts that I am going to prove, and the relationship of the family.

Now, if you will look at the pedigree near the second crease to the left, you will find "Richard Harrison the Intestate." Again, I say, I do not think there will be any dispute about the steps in the pedigree right up to John and Margery, whom you will see at the top.

The ATTORNEY-GENERAL: I think I may as well state here,

as it will save a great deal of time and trouble, that I cannot admit anything in this case. I shall be most happy to indicate the points that I actually contest, but I do not admit anything.

Mr. CLARE: The only admission we have is this: that Richard Harrison was lineally descended from John Harrison and Margery Brown. I think my friend is quite right, and I will put it in this way: I think there will be no contest about certain steps. I am prepared to prove all these steps, if necessary; but I do not think it is right where we can make admissions, or rather where we can relieve each other from the necessity of proof, that the time of the Court and the time of the Jury should be wasted.

The VICE-CHANCELLOR: I take it that this is not necessarily an accurate statement, or any admitted statement, but it is to let the Jury understand, and us, understand, the rough statement of the pedigree as you intend to prove it.

Mr. CLARE: Yes. Richard Harrison, you will see, is the intestate. He was the son of John Harrison, who married Rachel Hall. That John Harrison was a son of James Harrison, who married Ann Richardson. Her father was John Richardson, and it is as descendant of that John Richardson that you find William Horner, who was the claimant in Horner's Petition of Right. Leaving the Horner part of it, leaving John Richardson and his descendants, you will see that James Harrison was the son of John Harrison and Elizabeth Walmsley, who had three children, John Harrison, Margaret Harrison, and James Harrison. Now, the eldest son of that John Harrison and Elizabeth Walmsley was one John Harrison, who married a Thomasin Bennett. They had three children; those children all died young. John Harrison, the husband of Elizabeth Walmsley, was the son of John Harrison, of Lea, who married Ann Procter; and it is

through the first family of Ann Procter that Mrs. Slagg claims, and without taking you all the way through her line of descent, if you look to the extreme left of the pedigree you will see Mrs. Slagg at the bottom.

The VICE-CHANCELLOR: Did Ann Procter marry two persons of the name of John Harrison?

Mr. CLARE: Ann Procter married two persons, both named John Harrison; but it is not material in the least for me to go into Mrs. Slagg's case; I raise no difficulty at all, because whether Mrs. Slagg is descended from Ann Procter or not, if I establish the case which I am going to lay before you that is altogether immaterial.

Now, John Harrison, of Lea, was the son of John Harrison who married Margery Brown. There are three persons named John Harrison. The one who married Margery Brown, I will call John Harrison the first, the one who married Ann Procter, John Harrison the second, and the one who married Elizabeth Walmsley, John Harrison the third.

The VICE-CHANCELLOR: And the one who married Rachel Hall will be the fourth.

Mr. CLARE: The three John Harrisons who will come into the story hereafter are the three at the top, the husband of Margery, the husband of Ann Procter, and the husband of Elizabeth Walmsley. I call those, running from the top, one, two, and three.

Now, gentlemen, in Horner's Petition of Right, Mrs. Slagg established the marriage between Ann Procter and John Harrison the second, by means of certain statements in the will of Margery Brown, whose name you will see at the very top of the pedigree, John Harrison, the husband of Ann Procter, having been undoubtedly the son of John Harrison and Margery Brown.

Now, as far as Mrs. Slagg is concerned, I have an admission.

that all the descendants of John Harrison, who married Ann Procter, are now extinct, because Mr. Slagg is not a descendant of that John Harrison at all. I have that admission from Mrs. Slagg, who is my substantial opponent, because although the Duchy are here and have the right to address any observations they may think fit to you, gentlemen, and although they have a right to call witnesses and so on, yet I have no doubt my friend will agree with me, when I say that the Duchy are here merely to see that the right persons get possession of the property, and that the claimants make out their title satisfactorily.

Of course, if all the issue of John Harrison No. 2—that is the one who married Ann Procter—are extinct, we then have to go to John Harrison and Margery Brown, and see whether there are any descendants now living of John Harrison and Margery Brown.

Now, I have told you that Mrs. Slagg, for the purpose of establishing her case, relied upon the will of Margery Brown. I shall have to rely upon that will too; therefore I think that will be common ground. In addition to that, I shall have to rely upon the will of John Harrison No. 1, and you will find from his will that he had seven children, whose history we shall have to trace. The eldest of those seven children was John Harrison No. 2, the one we have been dealing with. The next is Richard Harrison, and then you will find William and James and Lawrence.

Gentlemen, you will see under the name of William Harrison the words “no issue,” and the same under James Harrison—please do not accept those words as a statement of fact. I am going to prove that they died without issue. The pedigree is merely compiled for the purpose of enabling you to understand the case and follow the evidence. At the top you will see the name Richard Harrison.

There has already been a claimant, Mrs. Crossfield, who tried to establish her relationship, or rather her descent from John Harrison and Margery Brown through that Richard Harrison; and that attempt was made in Horner's case, and it was defeated in this way. She had to shew that Richard Harrison, the son of John and Margery, was married in the year 1672 to one Ellen Fletcher, but either the Duchy or Horner—I think it was the Duchy—succeeded in establishing in that case that Richard Harrison, who was the son of John Harrison and Margery Brown, died in the year 1670, and, of course, could not have been the Richard Harrison who married Ellen Fletcher in 1672. I shall have to deal more at length hereafter with that part of the case, because I am sorry to say that in this case there have been persons who have acted very wrongly. I wish it to be at once understood that I am not imputing the slightest blame to any of the parties now in this litigation—but there have been undoubtedly, from time to time during the last twenty-two years, persons interested in claimants, who have had a motive for tampering with the registers, both by making alterations and cutting portions out. When I come to deal with certain points which may or may not be put forward against my claim, I shall have to shew you that there are undoubted falsifications of the registers, and undoubted forgeries of marriage bonds, and other documents of that sort, which must have been done with a view of establishing the claim of some one person. Of course the Duchy are above suspicion. I am equally certain that Mrs. Slagg has had nothing to do with it; and I do not think it will be necessary for me to point out or to attempt to prove who is the person, who has been at the trouble of doing all these things; but I think I shall be able to satisfy you that beyond all doubt, there have been alterations made in the registers, and tamperings with other

important documents; and it is with reference to that part of the case that I shall have to go into the history of Richard Harrison and the suggestions that have been made about him.

Now, William Harrison, who was the third son, also died without issue, and with a view to some earlier claim, undoubtedly there was an attempt made to prove that William Harrison had been married; but it was not essential apparently for that claim to prove that he had had any issue at all. I think I shall be able to shew that the attempt to prove his marriage was merely done in order to throw doubt on another part of the case.

James, the fourth son, undoubtedly died without issue, and I think there was no contest whatever about him.

Lawrence, the fifth son, was the subject of what is known as Porter and Nickson's case. That was a case which was tried many years ago with reference to this very same property. Certain persons came forward claiming to be descended from Lawrence. The matter was sent, I think, to an arbitrator at the instance of the Duchy; and the result of the arbitration, and the finding of the arbitrator was, that Lawrence died without legitimate issue. I am glad to say that my substantial opponent, who is Mrs. Slagg, has given me an admission that William, James, and Lawrence have all died without issue. There was no issue of any one of them living at the time of the death of the intestate Richard Harrison. I have admission of that.

Now, the other two children who remain are Ellen and Isabel Harrison; and it is through these two daughters, Ellen and Isabel, that my clients claim. Now, first just take Ellen Harrison, who married Henry Barton. She had a son. I will give you presently copies of the pedigree more in detail, because, in addition to the persons shewn on this pedigree, there are a number of persons whose deaths I shall have to

prove and get them out of my way ; but, leaving that out of consideration in the first instance, you will see that Ellen Harrison married Henry Barton. She had a son named William, who had a son named Henry, who had a son named Richard, who had a son named Henry, who had a son named Thomas Barton, who married Mary Cornall. I claim now on behalf of Thomas Cornall Barton. If I establish the descent of Thomas Cornall Barton, and establish the descent of other persons through Isabel, the result will be that Thomas Cornall Barton will be entitled to one-half of the property, and the other persons, consisting of two young children, Alice Ann Forrest and Louisa Emily Forrest, and Elizabeth Dobson and Mary Jane Bulcock, will be entitled to the other half of the property in thirds. Alice Ann and Louisa Emily Forrest would take one third, Mrs. Elizabeth Dobson one third, and Miss Mary Jane Bulcock another third.

Now, I think the proof that I shall bring before you of the Barton part of the pedigree will be very short ; and I rather prefer, in going into the evidence, to state what are the material facts and where the pinch is ; and you will have to exercise your minds upon the evidence, that will come in on what is called the Freckleton pedigree, which is the pedigree through Isabel.

Now, our case is that Isabel Harrison, the seventh child, married one Ralph Freckleton. Ralph Freckleton was her first husband, and we claim through the Freckletons. Our claimants, Miss Bulcock, Mrs. Dobson, and the two Forrests, claim to be the descendants of the marriage of Ralph Freckleton and Isabel Harrison.

You will see there mentioned that Isabel Harrison married for her second husband one Thomas Hesketh, and you will find, gentlemen, that that marriage, and the family documents connected with the Heskeths, especially the will of this



Thomas Hesketh and the references to his daughter, Margaret, are of the greatest possible importance in deciding whether there was a marriage between Ralph Freckleton and Isabel.

Now, I will tell you, gentlemen, at once that I shall not be able to produce to you in every case certificates of marriages, births, and deaths, with reference to this part of the case. It was in 1672 or 1673—somewhere about that time—that they must have been married. I have told you that not only have there been considerable falsifications of the registers, but entries have been invented and inserted in the registers, and in some cases whole pages have been cut out of the registers—I do not say by whom, it is not by anybody with whom I have to deal to-day—but those things have undoubtedly been done by some persons presumably having an interest in making out a descent.

Fortunately for us, we are in a position to prove these things to a large extent, through the custodians who have had from time to time the charge of old wills and old documents of that sort, which have not been susceptible of being so dealt with. I shall be able to satisfy you beyond all doubt that Ralph did marry Isabel, and that Isabel did, after Ralph's death, marry Thomas Hesketh.

Now, what was the precise date of Isabel's marriage with Ralph Freckleton I am not in a position to tell you; but I think I am right in saying that it must have been in 1672 or 1673.

I will tell you at once that there is a forged entry in one of the Penwortham transcripts. The registers of Penwortham Church have been destroyed; but on the back of the transcript, that is to say, on a document purporting to be a copy of the register of Penwortham Church for the year 1672, there is an entry of the marriage of Ralph Freckleton with Isabel Harrison in the year 1672.

Now, gentlemen, you would think that was an entry which I should be glad of, and one which would help my case materially ; but I have no hesitation whatever in saying that I shall be able to establish, beyond the slightest doubt, that that is a forged entry, and that it was done for a purpose, which I shall be able to expose. I am, therefore, with reference to the case of Ralph and Isabel, without any entry of their marriage in any register. I think I may suggest to you, gentlemen, that the same mind and the same hand which devised and executed that forgery on the Penwortham transcript would not be above cutting out, or obliterating, or altering the true entry in the register of the marriage of Ralph Freckleton and Isabel Harrison. Now, that forgery was part undoubtedly of a scheme to establish that Richard Harrison, the brother of Isabel, had married Ellen Fletcher.

I think I shall be able to shew that to demonstration, but for the present I will leave the particular question of this forgery until I go into it in detail, which I intend to do. Now, Ralph Freckleton, who was the first husband of Isabel Harrison, undoubtedly died in 1678, and sometime between 1678 and 1691 Isabel Harrison, who was then Isabel Freckleton, widow, married Thomas Hesketh ; and I will tell you how I make it between those dates. You will find in the will of her brother James that he speaks of his sister Isabel having three children. Now, at the time of Ralph Freckleton's death, we are only able to ascertain by means of the entries in the registers that Ralph Freckleton and Isabel had two children. You will see just below their names that there are three : two Henrys and a Ralph. The first Henry died an infant ; the second Henry and Ralph were the only two that were living at the death of Ralph Freckleton the father. They were both living in law, though Ralph was not born till after his father's death. You will find that after

Ralph Freckleton's death a grant of tuition was made of Henry the son, that is the second Henry, to Isabel his mother ; and you will find in Ralph Freckleton's will he speaks of his wife being *enceinte* with another child, for whom he makes provision. He goes further than that, I think ; he contemplates her being more fruitful than she actually was, he contemplates the possibility of there being more than one. As a matter of fact, we find she only had this one child after her husband's death. After Ralph Freckleton's death in 1678, in order to fulfil the terms in James's will, which is dated 1691, Isabel ought to have had a third child, and we find that she married Thomas Hesketh, her second husband. By Thomas Hesketh she had one child, and one child only, who married one John Ryley. Now I am not going to trouble you at the present time with the details as to how I am going to prove that Isabel married Thomas Hesketh, or that there was only the one child, Margaret, who married John Ryley.

The VICE-CHANCELLOR : What became of Ralph No. 2 ?

Mr. CLARE : That is not material for this purpose.

The VICE-CHANCELLOR : He is off the slate ?

Mr. CLARE : Yes, we need not consider that at all.

The VICE-CHANCELLOR : One more question. If Ralph did not marry Isabel, all Isabel's line would be gone ?

Mr. CLARE : Quite so.

The VICE-CHANCELLOR : Except so far as through Hesketh, of which I know nothing.

Mr. CLARE : We are not claiming through Hesketh at all.

The VICE-CHANCELLOR : You, representing the descendants of Ellen, would on that assumption be entitled to the entirety.

Mr. CLARE : We are in this position. Assuming that we establish both the pedigrees, the result follows that I told the Jury ; that is to say, Thomas Cornall Barton will get one half, and the Freckleton descendants will get the other half.

Supposing we fail in establishing the Barton part of the pedigree, the Freckletons get the whole.

If we fail in establishing the Freckleton pedigree, and we establish the Barton pedigree, the Bartons get the whole. In either of those cases we should be entitled to a finding for one or the other, which would displace Mrs. Slagg, and displace the Duchy.

Between ourselves, it is not of so much importance.

Gentlemen, if you find that these claimants, whom I represent, are entitled to the property we will settle the other question ourselves.

The VICE-CHANCELLOR: Assuming both pedigrees to be established, Barton takes a half and the Freckletons take the other half between them. Assuming Isabel's marriage with Ralph is not proved, Ellen takes the whole. If Ellen's descendants are not made out, and Ralph's are, the latter take the whole. The only question which occurred to my mind was whether there was any difference between the parties themselves, or whether you cover all.

Mr. CLARE: We are in this position: both my clients, both the Freckleton claimants and the Barton claimant, are in Court; I am appearing for them all. If there be any question between them that cannot be settled in this suit, as far as this issue is concerned, I put it to the Jury that if I establish one or the other or both pedigrees I must succeed. My friend the Attorney-General suggests to me that I have not exhausted all the possibilities of Isabel's marriage. I agree, I have not; there is one other suggestion with which I am prepared to deal at my own time, I have not forgotten it. It may not be apparent to a person not conversant with the pedigree.

The ATTORNEY-GENERAL: If Isabel married another man altogether, Thomas Weeton?

Mr. CLARE : If it will make my friend happy I will state it at once.

The ATTORNEY-GENERAL : The only thing I wish to point out is this. Isabel, the daughter of John Harrison and Margery Brown, has been alleged—truly or not—never to have been married to Ralph Freckleton or to Hesketh at all, but to have been married to one Thomas Weeton, and that the Isabel who married Ralph Freckleton was not the daughter of Margery Brown.

The VICE-CHANCELLOR : Is she called Isabel Weeton ?

The ATTORNEY-GENERAL : No ; she is called “ My sister, Isabel.”

Mr. CLARE : My friend the Attorney-General has mentioned something which I was going to tell you afterwards. I was trying to tell you one thing at a time. Of course it will be the duty of my friends, who appear for Mrs. Slagg, to throw as many difficulties in my way as possible, and it has been suggested that this Isabel Harrison could not have married Ralph Freckleton because she married a Thomas Weeton. I think I shall show you that the evidence in favour of her having married Thomas Weeton, depends entirely upon an entry in a register, which records a marriage of a Thomas Weeton and Isabel Harrison of Lea. That, I think is the whole of the evidence ; there is no other evidence of any other sort or description, such as I shall have, to connect her in any way or to prove her identity, beyond the fact that she is called in that particular entry Isabel Harrison, of Lea. Beyond saying that, I do not want at this time to go into the question of forgery and falsification until I can go into it completely in detail. I think I shall be able to establish beyond doubt that there has been a little manufacture of entries in the register in the Weeton direction. We have the original entries ; and I shall be able to satisfy you that not

only do those entries, if genuine, not give sufficient proof of her marriage to Thomas Weeton, but that they are undoubtedly subject to the gravest possible suspicion.

Now, assuming that I succeed in proving that Isabel Harrison married Ralph Freckleton, then Ralph and Isabel had three children—Henry, who died in infancy ; Henry, who was living at the time of his father's death, and of whom his mother was made tutor ; and Ralph, who was born after his father's death, and with whom we have no further concern at all ; because his Honor will tell you that if I establish descent from Henry, the eldest son, it is utterly immaterial what happened to the descendants of the younger brother.

The VICE-CHANCELLOR : You will have to show the death without issue of Henry No. 1. I assume that that is easy. Then Henry No. 2 becomes the eldest son.

Mr. CLARE : Yes, that I shall prove without difficulty. Ralph, the father, died intestate as to part of his property. He made a will, but there was not a complete disposition. Your Honor will find a variety of things which dispose of this Henry, but there are two main things which dispose of this first Henry. The parents would hardly in 1676, when the second Henry was born, have called the second son "Henry" if the first son Henry, who was born in 1674, was then alive. We have a certificate to prove that he died an infant in 1675, just one year old. Henry No. 2 was born in 1676, and we find that Ralph Freckleton, who married Isabel, as we say, by his will makes provision, not for his son Henry, but he makes provision for the child or children expected to be born.

It turned out to be a child, not children. Then, after his death we find Henry and Ralph, his two sons, releasing John Harrison No. 2, who was Isabel's brother, and who was an executor of Ralph Freckleton—we find them releasing John Harrison and others, the executors of Ralph Freckleton, as if

they were the only persons interested in Ralph Freckleton's estate. Now, gentlemen, as I have said, we have nothing to do with Ralph the son at all. Henry married Elizabeth Hesketh. He had a son Robert, who married Ellen Hornby. You will find that there is very great importance in this particular marriage with Ellen Hornby.

Mrs. Hornby had been a widow, her name had been Walton, and Robert was her second husband. You will come to one matter presently which has been most invaluable in tracing the family down from that time.

We find that one of the children of Ellen Freckleton is called Walton; that is to say, the mother's maiden name is given to her son, who is called Walton Freckleton. Walton Freckleton married Betty Smalley, who had a number of children; but the only two with whom we are concerned are Ellen and Elizabeth. I am going to put in evidence some old deeds, which trace out this particular part of the family easily and perfectly. Ellen, who was Mrs. Mawe, was entitled to some property that passed through her, through her father, Walton Freckleton, her grandfather, Robert, to Elizabeth, who was the daughter of Robert, and who married Thomas Walmsley Bulcock, and through him to Walton Bulcock. You will find that these deeds describe Walton Bulcock as being the heir-at-law of Ellen Mawe. He could only have been heir-at-law of Ellen Mawe if all the other descendants of Robert were dead. Now, Walton Bulcock is the father of three children. There were more children, but for this purpose all you have to consider are three—Ann, Elizabeth, and Mary Jane. I appear for Mary Jane Bulcock and Mrs. Elizabeth Dobson—Mary Jane Bulcock is unmarried. Then I appear for the two grandchildren of Ann, who married Mr. Forrest. You will observe in that pedigree that Ann Bulcock, who married Frederick Anderton Forrest,

calls one of her children Walton Bulcock Forrest, who marries Miss Nottingham and leaves issue, these two children, Alice Ann and Louisa Emily. Those four, including Thomas Cornall Barton, are my clients to-day.

Now, gentlemen, undoubtedly there is a question which will give you trouble in this case, and it is my duty to-day to enable you to come to a conclusion upon that question. You will have to say whether I establish satisfactorily the marriage of Ralph and Isabel. I am putting the Bartons out of the question for the present, because I think it is better for me, and it is better for all of us, that you should be told at once where the difficulty lies, and the point at which my pedigree is going to be seriously attacked by my opponents to-day.

I have told you that there are two suggestions with reference to Isabel. One suggestion is that she did not marry Ralph Freckleton at all. The suggestion is that although Ralph Freckleton undoubtedly had a wife Isabel—because that is beyond dispute—yet that wife Isabel was one Isabel who is known, and who will be called “Isabel of the Chain.” There were some old houses near Preston called the Old Chain Houses.

It is suggested that she was, or she is supposed to have been, born there, and to have been an illegitimate daughter of somebody with whom we have nothing to do.

The suggestion is that that Isabel who was married to Ralph Freckleton was not our Isabel at all, but Isabel of the Chain.

Gentlemen, that is sought to be made out in this way. On the back of the Penwortham transcript, there is a record of the marriage of Ralph Freckleton, giving his age—I think it is 19—and Isabel, giving her the age of 22, which would accord with another entry in the Penwortham



transcripts of the birth of an Isabel of the Chain, who was born, according to that, in 1650. The marriage record is 1672, and I wish, gentlemen, that you should pay particular attention to these dates. Now, on the Penwortham transcript of that marriage it is not suggested that that particular Isabel—I think I am right in saying that it is not suggested that that Isabel was Isabel of the Chain, beyond giving her age; but amongst the records of the marriage bonds of that period is found a marriage bond of Ralph Freckleton with Isabel of the Chain made to fit into this entry on the register; and on another transcript from the Penwortham registers there is an entry of the birth of an Isabel of the Chain under the date 1650. Now, gentlemen, that is the whole of the evidence so far as I know, upon which it can possibly be suggested that Ralph Freckleton married Isabel of the Chain, and I prefer very much to tell you what the evidence is that may possibly be put; but I think, after my explanation, it probably will not be put.

It may possibly be put against me, and I prefer to tell you at once what it is, and then to tell you how I propose to dispose of it.

Gentlemen, we have the will of William Harrison, who undoubtedly was Isabel's brother; there is no question about that. In William Harrison's will he speaks of Ralph Freckleton as his brother-in-law.

Now he could only have been his brother-in-law in one of three ways: either by Ralph having married Ellen, or by his having married Isabel (which is the way we suggest), or by William himself having married Ralph Freckleton's sister. Now, gentlemen, I think I shall be able to establish beyond all doubt that William did not marry Ralph Freckleton's sister at all. Ralph Freckleton certainly did not marry Ellen; and if I establish that William did not marry Ralph

Freckleton's sister—and it is clearly admitted that Ralph Freckleton did not marry Ellen—there is only one other way of satisfying William Harrison's will, that is by finding that Isabel was married to Ralph Freckleton. Now, if my case rested there I should feel that I had a very strong case when I had smashed, as I intend to smash, those fraudulent entries in this Penwortham register and the fraudulent bonds.

But the case does not rest there at all. In the course of investigating this case we came across the will of Ellen Barton; and Ellen Barton in her will makes her brother-in-law, Thomas Hesketh, one of her executors.

The VICE-CHANCELLOR: Does she call him "brother-in-law"?

Mr. CLARE: She calls him brother-in-law, "My brother-in-law, Thomas Hesketh." At first, not knowing anything at all about Hesketh's marriage, this would have seemed to be a considerable difficulty in our way; but the discovery that Thomas Hesketh was a brother-in-law of Ellen Barton, and could only have been a brother-in-law of Ellen Barton through his having married Isabel Harrison cleared it up; and you will find that that is the key to the whole family history.

Now, of course, Ellen Barton could not have a brother-in-law Thomas Hesketh, because she married a Barton, unless Thomas Hesketh had married her only sister, Isabel. There is no trace anywhere of Ellen Barton having any other sister except Isabel. But, gentlemen, we have the most extraordinary and conclusive proof of this part of the relationship, when I draw your attention to the fact that Margaret Hesketh, who was the daughter of Thomas Hesketh and Isabel, married one John Ryley.

I told you, when I opened the case, that you would have to bear in mind the fact that John Harrison No. 3—that is,

the nephew of Isabel—had married one Elizabeth Walmsley ; and that, shortly after the marriage of John Harrison and Elizabeth Walmsley, differences arose between John Harrison and Elizabeth Walmsley, which resulted in a separation. We have evidence that an attempt was made on behalf of many of the members of the family to patch up and make a reconciliation between those two. I think I shall be able to satisfy you that there is no doubt about it—that there was this quarrel between them, and that there was a reconciliation ; because their affairs came before this Court, and this Court made a decree, I think, very like a decree for restitution of conjugal rights.

I think the Vice-Chancellor would be very much astonished if at this period of time I came before you and asked him to make such a decree ; but at any rate the decree was made.

We have the old record by which John sues Elizabeth, and he gets something which is very like a decree for the restitution of conjugal rights. I am not sure that that decree of this Court was as powerful as decrees of the Court of Chancery usually are, because their friends and relations intervened, as friends and relations sometimes wisely do, and, through the medium principally of this very John Ryley, John Harrison and Elizabeth Walmsley were brought together and reconciled, and a settlement was executed which ended all their differences, which were differences as to property, and they lived happily ever afterwards—I suppose it was because they had a lot of children. The process was a very amusing one, as I shall prove when the letters are put in. Mrs. Harrison, late Walmsley, apparently had her backers, and John Harrison had his backers, and they adopted, as you will see from the letters, a most extraordinary process. Each side was so anxious that those two persons should not be brought together, except on fair terms, that they brought

them, accompanied apparently by their friends, and they put one of them into one room and the other of them into another room, and either they found a hole made through the wall or they made one, and allowed husband and wife to talk from the opposite sides of the wall through this hole !

Extraordinary as the process seems to have been, it had the desired result, because the two came together. I have told you that John Ryley was very largely instrumental in bringing about that result ; and you will find that we have a very large number of letters which passed between John Ryley and Elizabeth Harrison. I will call her Elizabeth Walmsley, to shew who I mean. Sometimes these letters were signed by John Ryley alone ; sometimes they were endorsed by John Harrison as well as by John Ryley ; and when these letters come to be read you will see that they connect in the most perfect terms, John Ryley as a cousin to Elizabeth Walmsley, by reason of his having married Margaret, Henry Freckleton's sister.

Now, gentlemen, there is another matter which I shall have to bring before you. Of course, I am only giving you now an outline of the case which I am going to prove.

Richard Harrison, the intestate, seems to have been a very extraordinary man ; and he and his family before him seem to have kept an enormous quantity, and we have an enormous quantity now, of old family deeds and old family documents and letters ; and he seems to have kept every scrap of paper, that related to his family, that he could lay his hands upon. Amongst other things, we find a complete bundle of the letters which passed between John Ryley, John Harrison, and Elizabeth Walmsley or Harrison, his wife, with reference to that reconciliation ; and you will see that those letters tie John Harrison and the Freckletons together in the most complete manner.

We shall be able to bring before you the fact that Miss Bulcock, until, I think, the autumn of last year, was absolutely unaware of the fact that she was interested in this property, and when my client, Mr. Jeans (who had been making searches and enquiries, with the view of finding out who the heir of Richard Harrison was), came to see Miss Bulcock, and to tell her she had an interest in the property, she produced to him a very large number of old family deeds relating to the Freckletons, going back by the line I have shewn you to Ralph Freckleton and Ralph Freckleton's father. We have the materials, I may say, from those old deeds found in Miss Bulcock's possession, for tracing the history of the Freckleton family up to the reign of Henry VIII. I daresay you know that in the northern counties of England there are a very large number of what they call statesmen. They are small freeholders, who have their deeds and wills dealing with property; and you can by means of such documents in those cases trace families, which are not of the first rank, back a very long way. At any rate, among Miss Bulcock's deeds we find deeds and documents of the Freckletons which would enable us to take back the Freckleton family to the reign of Henry VIII. Then we find a still more extraordinary thing. Among the Harrison deeds we find documents relating to the Freckletons; and among Miss Bulcock's deeds we find documents relating to the Harrisons. We find the original will of Ralph Freckleton in one place, and the probate in the other. When you come to have those documents and the evidence explained to you on our side, I think you will see that we shall establish beyond all doubt that there was a connection between the Freckletons and the Harrisons; and that that connection must have been through Ralph Freckleton having married Isabel Harrison.

Now, I propose to put in a considerable number of those

documents as I go along. I shall have also to put in the certificates, such as we have, down the Freckleton line.

I do not propose to go into the question of the Harrison line beyond John Harrison who married Elizabeth Walmsley.

The lower branches of that are clearly exhausted. If the Attorney-General puts me to it, I shall be in a position to prove it; but it will take some time to do that, and I do not propose to weary you with the details of it.

Now, with reference to these forgeries.

The VICE-CHANCELLOR: It is admitted simply as a matter of pedigree that Richard Harrison, the intestate, was the son of John, who married Rachel Hall, and who was the son of James Harrison, who married Ann Richardson, and who was the son of John Harrison, who married Elizabeth Walmsley?

Mr. CLARE: Yes. I have an admission from the Duchy that Richard Harrison is a lineal descendant of John Harrison and Margery Brown. I have the same admission from Mrs. Slagg, and I have also an admission of Mrs. Slagg that all the descendants of John Harrison No. 2 are exhausted. Really all I have to do is to establish the marriage of Ralph and Isabel, as far as the Freckletons are concerned, and then to come down the Freckleton pedigree.

The VICE-CHANCELLOR: And to prove your Barton pedigree.

Mr. CLARE: Your Honor will understand that in a case of this sort it is much better to tackle seriously the part of the case about which there is going to be a serious dispute. If there is to be any dispute about the Barton pedigree, we shall hear of it. At present I will leave it alone, and we shall hear as we go along how that may be; but undoubtedly we are face to face with an intention to dispute the marriage between Ralph and Isabel. I will deal first of all with this suggestion, that Ralph married Isabel of the Chain, because

I think that is very easily disposed of. I have told you that the first way in which it is suggested that that may be proved is by producing a transcript of the Penwortham register. Now, what happened was this; the register is copied at the church, and, periodically, it is a duty of the person who keeps the register to make a copy of the register.

Mr. TREVELYAN: A transcript.

Mr. CLARE: It is a duty of the person who keeps the register to make a transcript of the register, which is the same thing then as the register, and to transmit that transcript to the Bishop's officer, who keeps it. The original registers of Penwortham are destroyed, because the church was burnt between 1850 and 1860; therefore, we are not able to check in that particular case the transcripts with the original registers. Now, you will find that the Penwortham transcripts have been largely made use of for the purpose of creating this difficulty. The baptism of Isabel of the Chain, because that is the end at which I will begin, is on a transcript, which I will show to you at once.

The VICE-CHANCELLOR: Were all the original registers burnt?

Mr. CLARE: Yes, up to that time.

The VICE-CHANCELLOR: When was that?

Mr. CLARE: 1856.

The VICE-CHANCELLOR: The church was burnt and the registers?

Mr. CLARE: Yes. Mr. Earwaker, who is a well-known antiquary, has instructed me on this point; I do not know that there is anybody who has much more knowledge of those things than he has.

The VICE-CHANCELLOR: Then the transcripts, I presume, that you will deal with, were regularly sent.

Mr. CLARE: They were not regularly sent, or at any rate they are not forthcoming; and with reference to this particular transcript there is a very important blank. We have the transcripts here.

The VICE-CHANCELLOR: Which would be the Bishop's registry—Chester?

Mr. CLARE: That one would be Chester.

The VICE-CHANCELLOR: And the transcripts ought in the ordinary course to go to Chester, that is to say, to the Chester Diocesan Registry?

Mr. CLARE: Yes.

The VICE-CHANCELLOR: There they would have been kept as transcripts of a particular register sent at particular periods?

Mr. CLARE: Quite so.

The VICE-CHANCELLOR: Do they profess to have been sent in bundles?

Mr. CLARE: Your Honor shall see the exact things—every year, I believe, they were sent.

The VICE-CHANCELLOR: Sometimes that was not carried out at all, it was years before they were sent; in other cases they were sent every year.

Mr. CLARE: If necessary we could prove it; but it is notorious that up to a certain time, when there was a stir made about the matter, they were kept so loosely that anybody could get at them; and your Honor will find that in this particular case that was done. I have here a transcript for 1640. This is produced by Mr. Price, an official from Chester. I have here the transcript for the year 1640; that is to say, I have the transcript of the baptisms, and I have the transcript of the marriages for 1640; but I have not on that piece of parchment the transcript of the burials for the year 1640. Gentlemen, I have in my hand now the transcript



of the burials for 1640, but the date of it has been altered from 1640 to 1650!

The ATTORNEY-GENERAL: Where did that come from?

Mr. CLARE: This came from Chester; Mr. Gamon's officer has produced it. You shall look at this, and you will find that the date has been altered. I am bound to say that I cannot see it myself, but I am told you can see the down stroke of the 4. I suppose I cannot see it because of a deficiency in my own eyesight; but whatever the original figure was—if it was a four—and I think I shall satisfy you it must have been a 4, the 4 has been altered into a 5. When you come to look at it you will see that the 5 is written on where there has been an erasure. But what proves beyond all doubt that this must have been 1640 is this: that it is headed "Burials," in Anno Domini sixteen hundred and something, and it contains the names of a number of persons. I shall be able to prove to you, by independent testimony, that some persons who, according to this transcript, if the date has not been altered, are supposed to have been buried in 1650, died in the year 1640, and had their wills proved; and amongst other persons was a curate of the parish of Penwortham. When you come to look at this you find, that we have the rest of the transcript for the rest of the year 1640. The burials for that year are omitted; they are not on the transcript; and unless this is the one, which it obviously is, there is no transcript of burials for the year 1640 at all.

The VICE-CHANCELLOR: Is there one for 1650?

Mr. CLARE: No, that is gone. The one for the year 1650 is gone altogether; and I shall shew you that three of the persons who are put in here as having been buried in 1650 must have died in 1640, because we have probates of their wills or grants of administration to them, and amongst others the Curate of the Church of Penwortham himself. I ask you

to compare the handwriting on the back of this transcript with the handwriting on the other side, and to bear in mind this : that when the transcript is made, the assumption is that the transcript will be made of the entire register at one time, and the probability would be that the handwriting would correspond—the back with the front ; that is to say, that the whole transcript would be in one handwriting. It certainly is not so in this case. I think I shall be able to shew you also with reference to this, that those entries of baptisms which are on the back are in a handwriting very similar to the handwriting of other documents ; which, from independent sources, I shall be able again to attack and falsify. I will tell you at once with reference to this, because it is of importance, that amongst other things, which have been used in this litigation, and which may be put forward against me this day, as I have told you, there was a marriage bond of Ralph and Isabel Harrison. My friend Mr. Bradbury, who is with me, reminds me that I have not told you that the entry for which this is going to be used is an entry of the baptism of Isabel of the Chain, the illegitimate daughter of Mary Harrison, spinster. Of course, the object of that has been, to create an Isabel Harrison baptized in 1650, and who in 1672 would be 22 years of age, which would agree with the false entry on the other transcript of the marriage. Now, you will have an opportunity of looking at this, and satisfying yourselves as to whether there has been alteration. Then I shall give you, also, evidence as to these other people who are mentioned in this, that they died and had their wills proved in 1640.

The VICE-CHANCELLOR : Then it is the transcript of the burials alone which is said to be altered from 1640 to 1650 ?

Mr. CLARE : Yes.

The VICE-CHANCELLOR : The transcript of the baptisms and marriages, which is the other document which you hold in

your hand, and relates only to baptisms and marriages, is dated 1640 ?

Mr. CLARE : That is so.

The VICE-CHANCELLOR : That is not tampered with ?

Mr. CLARE : That is not tampered with, and your Honour will find the genuine handwriting of the two agree exactly.

The VICE-CHANCELLOR : In other years are the transcripts of baptisms and marriages copied on one scroll and burials on another ?

Mr. CLARE : They are fastened together. This has baptisms and marriages ; you will see that the two have been sewn together, and with a view of preventing people seeing that the small holes in this agree with the holes in the other sheet, they have cut off the piece at the top through which the sewing has been made.

The VICE-CHANCELLOR : They were usually one long scroll, kept in a roll like parchment records, and containing the "Baptisms, Marriages, Burials," all upon one continuous scroll. If the paper was not long enough, it was usually sewn at the bottom.

Mr. CLARE : That is the process that has been followed in this case. I should like you to look at that. That is undoubtedly the baptisms and marriages for the year 1640. Gentlemen, you had better take this other at the same time, and look at this side of it, and then look at the handwriting. I think you will have no difficulty in saying that the handwriting is the same. The long one has only handwriting on one side ; but turn the short piece round to the back, and you will find there is a different handwriting in a different coloured ink.

Of course your Honour will bear in mind that it is not likely that a transcript once at the Bishop's would be sent back to Penwortham to have a fresh transcript made upon it.

If you will look at the "1650," while you hold the short bit up to the light, it is obvious that there has been an alteration. If you hold it up to the light you can see that there has been something scratched out and a 5 put in the place. I shall satisfy you that what has been there originally has been "4," by proving that the persons whose deaths are recorded, died before that date which has been put, 1650. I do not want to give you gentlemen too much to do at present; but when you have all looked at this I will draw your attention to the particular entry of Isabel of the Chain, because we shall have to compare the handwriting of that with the handwriting on a number of other documents.

I am not going to profess to read some of those other documents, but Mr. Paul Rylands, who is also with me, and who is an antiquary, will read them, and when he cannot do it Mr. Earwaker will do it. I daresay you have noticed that on that one where the date has been altered, there are baptisms and burials, but no marriages, and on the other there are baptisms and marriages, and no burials. If you leave out what I say are the fraudulent entries, that is to say, the entries on the back of the short piece, then you have the complete record of the one year 1640 in one handwriting of the baptisms, marriages, and burials.

**THE ATTORNEY-GENERAL:** Is this a convenient time to discuss it? At the present moment we are standing in this position: that every document that does not exactly tally with your case, although it has been for 200 years in the proper custody, is asserted to be a forgery, but by whom we have not the slightest idea.

**MR. CLARE:** I do not think my friend should interpose.

**THE VICE-CHANCELLOR:** In the opening I think it is quite right to call our attention to all the circumstances.

The ATTORNEY-GENERAL : We have not seen them with this view at all.

Mr. CLARE : I must open my own case in my own way.

The ATTORNEY-GENERAL : I do not think it is correct. I think the proper way to deal with forged documents is to put them into the hands of the witness when he gets into the box for him to point out the details.

The VICE-CHANCELLOR : This is the opening of what Mr. Clare intends to prove.

Mr. CLARE : I dare say the Attorney-General will allow me to open my case in my own way!

The VICE-CHANCELLOR : I do not think Mr. Clare has gone beyond what his rights were.

The ATTORNEY-GENERAL : We have never seen these documents.

The VICE-CHANCELLOR : Nor have I.

The ATTORNEY-GENERAL : I do not know where they came from.

Mr. CLARE : I have stated that they have been produced by Mr. Gamon from the office at Chester. You will hear him.

The VICE-CHANCELLOR : This transcript is very clearly written.

Mr. CLARE : The undoubtedly genuine part of it is very clearly written, and the handwriting of the entries of baptisms and marriages corresponds clearly with the handwriting of the burials on the shorter piece.

The VICE-CHANCELLOR : It is a register of all the baptisms and marriages which have happened in this year "Anno domini 1640." Now on the shorter one "burials" is in the same handwriting, "burials in anno domini 16...."

Mr. CLARE : I ask you to compare the handwriting at the top, where you see the word "Penwortham," with the entries of the Christenings lower down.

Now, gentlemen, I ask you to look at the last entry but two in the part that I say is spurious—that is the entry in question, of “Isabel, daughter of Mary Harrison spinster.” I say the whole of those five entries are spurious.

That is an important one. I shall ask you later on to compare that handwriting with the other handwriting, and to hear what my witnesses say about it. Gentlemen, you will find on the burials—on the genuine entries—that there are 69 burials recorded. There is one John Wilding, of Hutton, buried March 26th. They appear to have spelled March with a “t” thus M-a-r-t-c-h. That, I think, is the first entry of all. Then there is “John Sudell of Long: Buried May y<sup>e</sup> 24<sup>th</sup>” “Mr. Bradshaw, Clerk, minister of Penworthā” Bu. (that is buried) Martch y<sup>e</sup> 11<sup>th</sup>” That is the last entry but three. Now it is very important that you should see that last entry. The last of the three is that of Mr. Bradshaw, Minister, of Penwortham, buried March 11th.

The VICE-CHANCELLOR: The burials are not entered in the transcript in order of date, but anyhow.

Mr. CLARE: That would seem to be so, but your Honour remembers the year began in the old style. The year began on March 25th, consequently the next entry is March 26th, then later on is May 24th and so on.

The VICE-CHANCELLOR: Then comes March 11th.

Mr. CLARE: That is the succeeding year. That year would end March 24th. It was very bothering at first. The year beginning the 25th March would end on March 24th, and consequently the entry of March 11th would be at the end.

Then I shall produce presently—there is no importance in this particular transcript—I shall produce the transcripts of 1641. You will find there that there is an entry of John Wilding of Longton, May 9th, 1641, as having been buried. Gentlemen, I shall produce the will of John Wilding of

Longton, which was dated the 26th March, 1641, and proved on the 15th May, 1641. He appears in the transcript of 1641 to be buried. By his will he desires his body to be buried at Penwortham, and he refers to the children of John Wilding, late of Hutton. Now John Wilding, late of Hutton, was the same person as the John Wilding who was buried on the 26th March, 1640, or according to that transcript it would appear, if that date 1650 is genuine, to have been buried nine years after John Wilding of Longton. We find in the Probate Court of Chester the will of John Sudell of Longton, who is one of the persons whose names I gave to you. His will is dated the 5th May, 1640, and it was proved at Chester on the 12th June, 1640. Now, gentlemen, if this 1650 ought to be 1640, and I say that it ought to be, then his will was made 19 days before he was buried, and it was proved a month after he was buried. If the "1650" is genuine, if there has not been any alteration, then his will is made before he is buried—ten years before he is buried—there is nothing unreasonable in that—but it is *proved* also ten years before he is buried. Now that is an extraordinary process. His will undoubtedly was proved in June, 1640, and yet according to that transcript they did not bury him till ten years afterwards!

Now, with reference to Mr. Bradshaw, the curate who is mentioned in that transcript, there is no will of his to be found, nor have we been able to find any institution of his successor; but we find among other records there a number of what are called Probate Act Books, in which the acts or grants of Probate or Letters of Administration are entered, and amongst others we find the following entry: "15<sup>th</sup> March 1640 Bradshaw." Then the translation is "Letters of Administration of Nathaniel Bradshaw, clerk, lately whilst he lived curate of Penwortham, were granted to Nicholas.

Bradshaw, his brother." Then it goes on with the saving clause. According to that he was buried in 1640.

Now, I think, without going very much further, when I have proved these particular points with reference to the persons entered in that transcript, I think I shall have to shew you that that figure 5 must have been put in for the figure 4. Now, I have told you what the object of that was. It was to make the age of that Isabel of the Chain agree with the person who, on a subsequent transcript, was married to Ralph Freckleton.

You will find, I think, when you come to compare the handwriting on the back of that shorter piece of parchment, that it agrees both in the character and the ink with some of the other documents which it is my duty to attack. Now, having seen the way in which these entries on the back are manufactured, and the fact that they are put on to the back of the transcript, you will not be surprised, gentlemen, when you find that the entry of the marriage of "Ralph Freckleton, aged 19, with Isabel Harrison, aged 22," is put on the back of another transcript, through there not having been room to put it on the front and it is headed—"Omissiones."

In the same way, in order to give a colourable appearance of being genuine, they have put some two or three other entries—I forget how many there are—but you will see them.

Mr. Price, the proper officer, will sit by the Registrar and produce them. There are three entries on the back of the other transcript, which you shall have in a moment.

Mr. Earwaker, who, I suppose, knows more about the registers in this part of England—if not in all England—than anybody else, will tell you that those entries, quite apart from the handwriting, and quite apart from being on the back, are very unusual in a number of respects. For



instance, they give the ages of the persons married ; and I am told by Mr. Earwaker that he has been unable to find a single case of that elsewhere.

The VICE-CHANCELLOR : Ages given ?

Mr. CLARE : Yes. Mr. Earwaker tells me, and he will tell you on oath, that he has been unable to find any case in which ages have been given on contemporaneous registers.

The VICE-CHANCELLOR : The only cases, as a rule, where the ages were inserted in old documents were in cases of infancy, where the lord made a claim to amerciamment. There you find the age of the infant and the amerciamment paid to the lord for giving up his rights during the minority.

Mr. CLARE : That is one of the many defects in this particular little fraud.

The ATTORNEY-GENERAL : And this particular fraud, you say, was a minor ?

Mr. CLARE : That was not so in all the cases.

The VICE-CHANCELLOR : There may have been a very energetic Vicar of Penwortham, who made very full entries.

Mr. CLARE : There are a number of other objections to this, and it is so closely connected with the others.

The VICE-CHANCELLOR : A great many ladies beyond a certain age would absolutely refuse to give their ages, and no Vicar could extract it from them.

Mr. CLARE : It is very remarkable. I think it is not at all likely that she would have given her age in that particular case, because she was marrying a man younger than herself. He was 19 and she was 22. It has been obviously put in in order to tie it with the other entry of 1650—it is obvious that that is the object of it. Somebody wanted to make out that Ralph Freckleton had married Isabel of the Chain ; and, of course, you will have again to compare the writing on the front with the writing on the back, and to bear in mind

this very extraordinary thing: that the principal entries relating to the Harrisons have always found themselves either written over erasures—there are a number of entries like that—or on the back or at the foot of something else—there is always something suspicious about them. They are on erasures or at the foot or at the back of a document. I shall have to deal with the Weeton entries—you will find those of a most suspicious character.

A JUROR: Shall we be told who is the somebody that is supposed to have done these things?

Mr. CLARE: I think I could do so, but I do not think it is necessary to do so.

The VICE-CHANCELLOR: The *omissiones* are not verified at all are they?

Mr. CLARE: The question has been asked me whether I am going to state who it is that has done this. I do not think that is a fair issue to try; the man is not here; it is nobody connected with this case on either side.

The VICE-CHANCELLOR: What are put in as *omissiones* are not certified at the foot.

Mr. CLARE: Gentlemen, if you will look at the date and at the handwriting on the front and on the back, I point out, what his Honour has pointed out, that in one case there is a verification of the entries, and in the other case there is not.

The VICE-CHANCELLOR: I do not think any of the ages are given in the front.

Mr. CLARE: No, they are not.

The ATTORNEY-GENERAL: All this question has been tried before.

Mr. CLARE: I daresay, but not in my presence.

The ATTORNEY-GENERAL: The *omissiones* I mean.

Mr. CLARE: Yes; undoubtedly these were treated by the Arbitrator in Porter and Nickson's case as perfectly genuine;

but there was not anybody before the Court who had anything like the material before them that we have, or who had the interest.

The ATTORNEY-GENERAL: I do not think it is fair to discuss the matter over again.

Mr. CLARE: I agree with my friend, it is not really fair to go into it again, but my clients were no parties to it on the former occasion. We have an enormous mass of materials for dealing with this matter, which were not before the tribunal before.

The ATTORNEY-GENERAL: I think we should keep that as much out of this enquiry as we can.

The VICE-CHANCELLOR: Any fact tried on a former occasion between other parties cannot be a fact in this case.

The ATTORNEY-GENERAL: I agree with that; but if that one has been tampered with, most likely other entries have been tampered with.

The VICE-CHANCELLOR: Having had to do with peerage cases, I have had some little experience, but I never in my life saw a case in which the entries gave the ages of the parties married, except in the single instance of where it was the marriage of an infant ward, and then it shewed the amercement paid to the lord. This is a great thing, as shewing that no clever forger would have put that in.

Mr. CLARE: He could not tie this Isabel of the Chain in any other way than by putting the age in when she was married.

The VICE-CHANCELLOR: It is very peculiar that the age should be put in in this way, the woman being above age and the husband under age. It might for some possible reason have been necessary to show that he had the consent of guardians, or something of that kind—it is difficult to say.

Mr. CLARE: On that transcript, gentlemen, one of the other entries is an entry of the marriage of William Harrison and Alice Freckleton—William was the brother of Isabel.

Now, if you come to the conclusion that those entries are not genuine, then, of course, if I destroy one I destroy all ; and the entry of the marriage of William and Alice has been put in undoubtedly for the purpose of explaining away the expression in William's will—"my brother-in-law, Ralph Freckleton." I explained to you that that was one of my strong pieces of evidence, and in order to give William the relationship of brother-in-law of Ralph Freckleton, otherwise than through Isabel, they invented the marriage of William to Alice on that transcript. Gentlemen, I think we shall be able to dispose of that, because we are in a position to put in the entry in the register of the burial of Alice as Alice Freckleton, not as Alice Harrison. So with reference to these two entries we shall prove that they are frauds in that way. Now, at the same time, also in order to support this view, that there were those two marriages, there have been produced in other proceedings, with which we have nothing whatever to do, and there are in existence now, three bonds, all of which are marriage bonds. In those days, in order to contract a marriage of that particular description, there had to be a marriage bond given to the Bishop. On a former occasion, as I have said, they produced three bonds, one a marriage bond given by William, and I think Richard Harrison—it purports to be by William and Richard—upon the marriage of William and Alice Freckleton. Another is by Ralph Freckleton, and a bondsman on the marriage of Ralph Freckleton with Isabel Harrison ; and the third is a marriage bond of Richard Harrison with Ellen Fletcher. Now, you will have to compare with other writing the writing of those three bonds. I do not profess to be an expert, but I am told that we shall be able to give evidence pointing out similarities, not only in the bonds themselves, but similarities in the handwriting in the bonds to the handwriting of the

particular entries to which I have been drawing your attention; and it is obvious that those could not be written by the same persons, because the bonds would be prepared by the Bishop's officer, or at any rate they would be prepared by the person who took the bonds, who would not necessarily be the same person as the person who wrote the transcripts. I think some of the bonds must have been prepared at Kirkham, and the transcripts would be written at Penwortham; and the person at Kirkham and the person at Penwortham would not be the same. But, gentlemen, there are two difficulties about those bonds. It was important to establish, not in this case at all, but it has been important in one of the cases to establish, that one Richard Harrison, of Westby, had removed from Lea to Westby, and had there married one Ellen Fletcher; and somebody wanted to identify Richard Harrison, of Westby, with Richard Harrison, of Lea, a brother of William. Accordingly, we find in the bond which was given on the marriage of William Harrison and Alice Freckleton—which bond I say is a forgery—we find that it is expressed to be given by William Harrison, of Lea (I am translating it as well as I can), in the parish of Preston in the county of Lancaster, husbandman, and Richard Harrison, "*ejus frater*" (his brother), the object of that being to establish that Richard Harrison, described as of Westby, husbandman, was the brother of William Harrison, of Lea, husbandman. Now, this bond has been used before, and I shall destroy this bond as it has been destroyed before, and with additional evidence. In the first place, old John Harrison, the father, had some copyhold property which he devised in succession to his sons—Richard, William, James, and so on; and the persons who were manufacturing these bonds and these entries either did not know that, or if they did, they did not attach very much importance to it. They did not get at the Court Rolls,

and when we came to examine the Court Rolls we find the record on the rolls that Richard Harrison, "*ejus frater*," who is made a party to this bond in 1672, was dead in 1671; and we shall be able not merely to produce the Court Rolls proving that, but we have the grant of administration of his estate; and we have not only that grant, but we have the inventory that was made of his goods and chattels after his death. So you see we have here a bond purporting to be made by a man as party to the bond, who then had been dead one and a half years. That is not the only difficulty in the way of this bond. The bond is made not only by a dead man, but is made to a *dead Bishop*, because it was made at a time when there was no Bishop of Chester at all; that is to say, that John, Bishop of Chester, had died in November, and this bond is dated in the January following, and the new Bishop, John Pearson, was not appointed and not consecrated until the following February. That bishop is the celebrated Bishop who wrote "Pearson on the Creed."

Gentlemen, I am going to prove all these facts to you, and upon those facts you will have to say whether in your opinion the slightest reliance can be placed upon any one of those entries.

We have the other two bonds, the bond on the marriage of Ralph Freckleton with Isabel of the Chain, as she is described, and we have the marriage bond of Richard with Ellen Fletcher. With that I am not concerned; it is sufficient for my purpose that those two bonds of William and Alice and Ralph and Isabel are false and valueless. In those bonds, again, they have made the same mistake—at least I am told it is a mistake—the bonds give the ages of the persons married. I am told that that is most unusual—in fact, I am told that it is unique to find bonds of this date with the ages given in them. Gentlemen, there was another difficulty

which these parties had to deal with: they had not only to fabricate old documents and get the appearance of the ink to correspond, but they had to get an old piece of paper. What they appear to have done has been this: to have torn fly leaves from some of the other genuine bonds, the bonds being written on a large sheet of letter paper folded so as to make two leaves. They have apparently torn off the fly leaves, and then even they found themselves rather in a difficulty because there has not been room to write the whole bond, so when they have got to the condition of the bond, finding that there was a good deal of the most important part of the bond that they could not get on to the paper, the bond continues "and so forth, and so forth."

The ATTORNEY-GENERAL: I should say that that was the strongest evidence of its genuineness.

Mr. CLARE: Gentlemen, you have to put all these things together. I shall ask you to say whether in your opinion there is anything whatever in the theory of Ralph Freckleton having married Isabel of the Chain. Now, it may be suggested that Isabel married Thomas Weeton. I shall not detain you very long about that, because my case will depend upon the fact that there is absolutely no confirmation of that story, and absolutely no proof of the identity of Isabel if she did marry Thomas Weeton at all, beyond the fact that in the entries in the register Thomas Weeton is stated to have married Isabel Harrison of Lea; but the whole of the identification depends upon the use of the words "of Lea." Those entries are very suspicious; they are most, if not all of them, written at the bottoms of the pages; and in one case this has happened: that you find in the register three entries, but in the transcript corresponding to that year you only find two. I think it is in the transcript that you will find, that in order to get room to put in the particular

entry of the marriage of Thomas Weeton with Isabel Harrison, the transcript has had an erasure made in it, and the particular entry is written over that erasure. When I come to shew you the particular transcript I will point out what the object of that alteration has been. The fact was this: the previous entry was an entry of the marriage, I think of somebody of the name of Whittaker with one Janet Hatch, of Preston. The entry was a long entry, and it took up more than one line, and the consequence was that the words Hatch of Preston appeared on the second line. Then, in order to find room for the entry of Thomas Weeton and Isabel Harrison, the words "Hatch of Preston" have been erased. You can see the marks of the erasure. Then in the line above, the word "Hatch" has been put after "Janet," which has been the concluding word of that line, with a caret, and they have not had room to put in "Preston" at all; they have simply concluded that entry without giving the name of the residence of Janet Hatch. That is in the transcript. On the original register there is another marriage of a certain man named Jackson; and when you come to look at that transcript you will find that marriage is omitted, for the very good reason that they had used all the space at their disposal; yet we were asked to believe that that transcript, which if it is any good at all, ought to have been perfectly kept and made with care, omits in one entry the important words "of Preston," as pointing out the residence of one of the persons, and omits one of the entries altogether! I shall not go any further into these Weeton entries, because Mr. Earwaker will deal with those when he is in the box, and it will be better for you to see him and hear what he has to say about it when you have the particular transcripts before you.

Now, gentlemen, I have told you so far as I know the kind of case or cases that is or are going to be made against us



with regard to that marriage. I will now tell you what our evidence is with reference to it.

(Adjourned for a short time.)

Gentlemen, I have nearly finished all that I have to say to you. Of course, the facts that I have been opening to you will be proved. I have told you all I had to say with reference to the suggestions that Isabel Harrison married another person, and that Ralph Freckleton married another person. I now propose to go into our proofs to show you that Ralph Freckleton did in fact marry Isabel Harrison, who was the daughter of John and Margery. In the first place, we have the will of John Harrison, No. 1, and in his will he mentions his seven children—that is, John, Richard, William, James, Lawrence, Ellen, and Isabel. I do not know that any question will be raised about that will. Both my friends, who to-day represent Mrs. Slagg, and myself must rely upon that ; and all that that will proves is, that at the time he made his will he had those seven children living, and it proves also that he had some property held of the Manor of Lea, called Darginson Crofts in the township of Ashton, in the Manor of Lea. I presume, Mr. Rotch, you do not want us to prove the original Court Rolls—you have admitted the printed documents?

Mr. ROTCH: We do not.

Mr. CLARE: Perhaps your Honour will take it that I am not compelled to produce those. We have them in the appendix to the case, printed for the use of the House of Lords. John Harrison by his will says this:

“Whereas I have and doe hould by one Indenture of Lease under the hand and seale of Sr Richard Hoghton Three Crofts heretofore called by the name of Dargin-

son Croftes under the rent and Boones to be paid for the same as the said Indenture of Lease witnesseth wch three croftes or p'cels of Ground with the Indenture of Lease of the same I give and bequeath to Rich. Harison my son and his Issue male dureing the tearm of the aforesaid Indenture of Lease and for default of Ric. Harison and Issue male to Will<sup>m</sup> Harison my son," &c. Now, gentlemen, the important part of this is that on the Court Rolls you will find that on Richard Harrison's death, William, his brother, who is the next in the gift, is admitted to possession on the Rolls. Of course, he would not be entitled to be admitted to possession if Richard had died leaving issue.

The ATTORNEY-GENERAL. As far as I am concerned, you need not labour this.

Mr. CLARE: But this is important. The next gift is to William and his issue, and in default of William and his issue, it is to go to James, who is the fourth son. We find again, on the entry of the Rolls, that on William's death James gets into possession. So that we have evidence there that Richard Harrison and William must both have died without issue; or else, according to the terms of this gift, there would not have been that succession; and there is this—perhaps it may not be intelligible to you, gentlemen of the Jury—we do not find any trace of there having been any disentailing deed by either Richard or William, which would have cut out their issue. Then, on William's death we find that the estate goes on on the Rolls to James—so again we get rid of William and his issue. Then the gift is to James and his issue, with a gift over to Lawrence. We are not concerned here beyond Lawrence, because there is no further gift under the will. On James's death we find that Lawrence is put into possession, and there is an end of it.

Now, I read that as part of our evidence, for the purpose

of showing, shortly, that Richard, William, and James must have died without issue. The next document of importance on this part of the case is the will of Margery Harrison.

The VICE-CHANCELLOR: Before you leave the will of John you must take it that John mentions the seven children.

Mr. CLARE: Yes, by name; it is just at the end of the will

"I give and bequeath to Richard Will<sup>m</sup> James Lawrence Ellen and Issabell Harison my Sones and Daughters and the sorv<sup>rs</sup> of them as they shall accomplish their severall ages of twentie one yeares," &c. ; "I do make and ordaine Margerie my wife and John Harrison my son my executors."

He mentions his wife and his seven children. The date of that will is the 18th October, 1667. Now in 1670, from the Rolls, we find that Richard Harrison the son died, and we shall put in the administration to him, granted to his brother John, and also the inventory of his goods and chattels, made out in the year 1670.

Now, when you come to Margery Harrison's will, which is dated in 1672, of course you would not expect to find any mention of Richard, her deceased son; and the only persons whom we find she mentions are her six children then living—John, William, James, Lawrence, and the two girls.

" . . . . . And it is my Will and mind and I doe hereby give & bequeath all the rest residue revercon and remainder of all my goods cattels chattels rights debts and creditts unto Will<sup>m</sup> Harison James Harison Lawrence Harison Ellen the wife of Henry Barton and Isabell Harison my natural sons and daughters equally amongst them."

At that time Isabel Harrison was clearly not married to anybody. That will is dated the 23rd May, 1672. You will observe there, gentlemen, that she speaks of her daughter

Isabel as Isabel Harrison, in May, 1672. Then just before she mentions that she says this :

“ Imp<sup>ts</sup> it is my will and mind that all such debts wch I doe owe of right be well & truly payd and discharged and after such debts payd and funerall expences performed I doe give

to the young one in the womb of Ann the wife of John my son two shillings.”

and bequeath to Lawrence my son thirtie shill<sup>gs</sup>     ^

Those last words are interlined in the original will, and it was a question whether those words were genuine or not. Mrs. Slagg’s case, or rather Horner’s case, was taken to the House of Lords, and the House of Lords held that that was a genuine interlineation, and that there was nothing wrong about it, so I understand. You will understand that I am not going to suggest for one instant that there is anything in that interlineation of which anyone has a right to complain. As I understand, it was a material part in Mrs. Slagg’s case. There it is; I am not quarrelling with it, and I think she did establish her case. Then we come to the will of William Harrison. He describes himself as William Harrison, of Freckleton, in the County of Lancaster. I may tell you that all these places—Freckleton, Lea, Newton with Scales, and other places, of which you will hear—are all in the Fylde country, and all within a very short distance of one another.

William Harrison says in his will as follows :

“ I give and bequeath to Elizabeth the daughter of Henery Barton of Lea five shillings ” (she was his niece). “ Item I give unto John Harrison my brother John Sonn of Lea aforesaid five shillings and my lessar silver spoone Item I give and bequeath unto Henery Frecklton my brother in law Ralph Frecklton sonn of Frecklton aforesaid my stout coul<sup>t</sup> w<sup>th</sup> the Collar of Bells and my biggar silver spoone Item I give to my brother Lawrance Harrison forty shillings And all my apparell except my best coate but one

& my best payre of briches And those two that is to say the coate and briches I give to my follow servant Thomas Lea Item I give to my brother John & to my sisters Ellin & Isabell every one twelve pence Item After my legacies bee paid and funerall expences discharged I give & bequeath all the rest & remander of my goods whatsoever unto my Brother in law Ralph Frecklton & to Ellin Frecklton his sister equally betwixt them Lastly I nominate & appoynt my said Brother in law Ralph Frecklton sole executor of this my last Will & Testament hopinge hee will p'forme the same as my trust is in him reposed."

Now, gentlemen, you will observe that he there not only speaks of his brother-in-law Ralph Freckleton, but when he speaks of Ellen Freckleton, who was Ralph's sister, he does not call her his sister-in-law, as she would have been if he had married Alice. The suggestion is that William married Alice. Of course, in that case Ellen would have been his sister-in-law as much as Ralph was his brother-in-law.

The ATTORNEY-GENERAL: Is that so?

Mr. CLARE: I think so. I think your wife's sister is generally your sister-in-law. Ellen was Alice's sister.

The VICE-CHANCELLOR: Ellen was a sister of Ralph?

Mr. CLARE: Ellen was a sister of Ralph and Alice was a sister of Ralph.

Then we have the will of James Harrison, which is dated 1691. I am reading these wills, but I should have told you that there are other things that come in between. You will find that in 1678 Ralph Freckleton had died; and I think we shall be able to shew that at the time of his death he had only one child actually born and another child he was expecting afterwards to be born—that is his son Ralph.

James Harrison made his will in 1691, and in that will he says:

"After my debtes legasies and funerall expencis be discharged I give all the rest residue & remainder of all my gudes that is to say to my loving brother Lawrance Harrison one third pt<sup>e</sup> & to my loving sister Ellinges three children a second pt<sup>e</sup> & to my sister Isabells three children the last third pt<sup>e</sup> of all my goodes eaquelie amongst them & lastlie I doe nominate & apoint John Harison my loving brother & Lawrance Harrison my brother Executors of this my last Will & Testament hoaping they will p<sup>r</sup>forme the same as my spechall trust is in them reposed."

We find now that Isabel had by this time three children; and it is remarkable—of course if it had not been for this one fact there would have been probably no difficulty about the case—it is remarkable that both William, who is speaking after Isabel must have been married, and James, who is also speaking after Isabel had been married—neither of them mention her surname at all. Our suggestion to you is—and I think you will see that it is so when we have finished our case—that at this time not only was Ralph Freckleton dead, but Isabel his wife had married Thomas Hesketh, and had one child, Margery Hesketh, who married John Ryley.

At this point I do not read the will of Lawrence, because the question on Lawrence's will would be whether he left any other children except those two illegitimate children who have been spoken of. Consequently, we get to the will of the next member of the family, Ellen Barton, which is of importance not only with reference to her own descendants, but it is of importance with reference to Ralph and Isabel. Ellen Barton in her will makes a person she calls her "brother-in-law Thomas Hesketh," executor. There we get this fact, that Isabel Harrison, who had married Ralph Freckleton, had some time prior to the will of Ellen Barton married Thomas Hesketh and had a child. She must have

married some time prior to the will of James, which was in 1691, because we find in 1691 that she had three children. She clearly had only two by Ralph Freckleton (exclusive of the first Henry who died in infancy), and the third she must have had by Thomas Hesketh. We have confirmation of that, because we find from Thomas Hesketh's will, and from other documents connected with it, that he had only one child, and that that child was Margaret Ryley. I have told you what was the substance of Ellen Barton's will.

Your Honour will not find that will in the Appendix to the printed case, because they did not go into this part of the case at all in the House of Lords.

Now, Ralph Freckleton's will is dated the 6th June, 1678, and I think he was buried four days afterwards, at any rate he was buried in the same month. He says as follows :

"It is my will and pleasure and I do appoynt & desire my trusty & well beloved friends John Harrison of Lea in the County of Lancaster yeoman"—that was his brother-in-law—"George Brown of ffreckleton"—he would no doubt be some relation of Margery Brown—"and James ffreckleton of y<sup>e</sup> same yeoman to be my trustees."

You will find, gentlemen, that it is very important to bear in mind those three names, because they are connected with a release that comes subsequently and ties the people completely together. Then he says :

"And do authorize them to sett or sell all or any pt<sup>e</sup> of my estate and lands lying and beinge in Freckleton aforesaid," &c. . . . "And it is also my further will & pleasuar that my said trustees shall pay out of my lands aforesaid to y<sup>e</sup> child in y<sup>e</sup> woome of my now wife Issabell, when it shall come to y<sup>e</sup> age of one & twenty yeares, one hundred pounds. And if she shall have more children than one then my said trustees shall pay out of my said lands to each of them sixty

pounds apeece when they shall come to y<sup>e</sup> age of one and twenty yeares."

Now, we know that he had an eldest son Henry at that time, so he is here making provision out of his real estate for his younger children, which it would be necessary for him to do.

"And it is my will and pleasuar that my said trustees shall be kept harmless lossless and indemnified out of my said lands in Freckleton aforesaid And of this my last will I mak and ordaine my well beloved wife Issabell my full and whole executrix And I doe hereby disalow revoke and annull all and every other former testaments wills legacies bequests and executors by me in any wise before this time named willed or bequeathed Ratefyinge & conferminge this and none other to be my last will & testament," and so on.

Then he signs it. Now, you will see there, gentlemen, that he does not make any provision for any child except the children that he is expecting to be born from his wife Isabel, and the explanation of that is probably this: that he had some land and nothing else, or very little else at any rate; and it was necessary for him if he wished to provide for the younger children to charge his land with sums for them—£100 in the case of there being only one born, and £60 each in case there were more. So far as the eldest son Henry was concerned, it was not necessary for him to do anything of the sort. Then we find after his death, when his two sons, Henry and Ralph, come of age, that they execute a release on the 2nd of March, 1699, to the three executors, James Freckleton, George Browne, and John Harrison, of Lea, yeoman. That release is very strong evidence indeed that there were only two children of the marriage of Ralph Freckleton and Isabel; because you will observe that it is not a release by Henry Freckleton alone, which it might have been as heir at law,



and that would have given us no indication of there being other children; but it is a release by Henry Freckleton and his younger brother Ralph, who would not be interested except under the will, and we find no trace in Ralph Freckleton's will of there being more than two children at the time of his death.

The VICE-CHANCELLOR: Presumably that would be just after the younger one came of age, about 21 years after, when Ralph, the younger son, attained full age. .

Mr. CLARE: It was just after the younger one came of age. The younger one was begotten but unborn at the time of his father's death. One gets rather bothered between the old style and the new style, this is in March, 1699, what we should call 1700. That release was found in the place where it ought properly to be—amongst the papers of the intestate, who was representing in descent John Harrison, the trustee. We have here the original will of Ralph Freckleton. This which I now hold in my hand is the original will, which was also found among the papers of Richard Harrison the intestate. It would probably be there, because we find that when John Harrison got this he signed a receipt for it on a certified copy, which is now in the Probate Court at Somerset House, and we can produce it. We have the original will of Ralph Freckleton, produced from the intestate's papers. Here I have the original Probate of the same will, produced from Miss Bulcock's papers. Of course the original will would properly be with Richard Harrison, because John Harrison was a devisee of the trust estate, and he would be the person to have the document which would prove the title to the real estate, that is to say, the original will. The Probate would be a matter for the executor; accordingly, we find the Probate coming down with the personal estate title to Miss Bulcock.

Now, on the original will is what I am told is a memorandum of a grant of tutelage of Henry the son to his mother Isabel. I cannot read it at all, but I am told that that is what it is. It is at a time before Ralph the younger was born.

The VICE-CHANCELLOR: That would be granted out of the Consistorial Court?

Mr. CLARE: I do not know whether it is the original grant, or only a memorandum of it; that would be a memorandum, because I now have handed to me the original grant. We have here the certified copy of Ralph Freckleton's will, with John Harrison's signature on it, and I have here the grant of tutelage to Isabel.

The VICE-CHANCELLOR: This is only a grant to Isabel of the tutelage of Henry, not of Ralph?

Mr. CLARE: Of Henry, because she had only one child born then.

The VICE-CHANCELLOR: It only shews this: that a Henry Freckleton was in existence at that time, that he had a mother named Isabel, and that Isabel was appointed guardian or tutor to Henry the child.

The ATTORNEY-GENERAL: I do not see that it is evidence at all, seeing what custody it comes from.

The VICE-CHANCELLOR: It comes out of the proper custody, I suppose.

Mr. CLARE: I say that is a document found in the possession of Richard Harrison the intestate, shewing the connection between that line and the Freckleton line.

The ATTORNEY-GENERAL: He was the purchaser of these estates, there is no doubt about that.

Mr. CLARE: No, you are wrong about that.

The ATTORNEY-GENERAL: He was a very rich man.

Mr. TREVELYAN: I shall object to it when it comes to be put in.

Mr. CLARE : Here we have the original grant, and I do not very much care whether these particular things are in or not. They are not of much importance, because the statements in the wills are sufficient for my purpose. If my friends object when the time comes, we will argue the matter.

The VICE-CHANCELLOR : It may be important as connecting Henry the son of Ralph and Isabel, as being the son of a particular Isabel, who was appointed tutor. Then it would clearly be admissible evidence in a pedigree case, as proving that Henry, the child of Ralph and Isabel, was the child of the Isabel who was appointed curator of his person.

The ATTORNEY-GENERAL : I am not objecting to it because of its want of relevancy ; but I have not yet seen the foundation for its being more than waste paper.

The VICE-CHANCELLOR : In pedigree cases it would be evidence if it come from the proper custody.

The ATTORNEY-GENERAL : I say that it does not come from the proper custody at all.

Mr. CLARE : It does.

The ATTORNEY-GENERAL : I understand that this comes from a large collection of documents of every sort and kind, many thousands of which, we have heard from my friend, were in the custody of the intestate.

Mr. CLARE : The original will upon which that memorandum is was a will to hold which John Harrison No. 2 was the right person, because he was trustee of the will, and it is a will of real estate. Richard Harrison the intestate, in whose possession that original will with that memorandum upon it was found, is a direct lineal descendant of that John Harrison, and is the natural person to whom that document would come.

The VICE-CHANCELLOR : It would be in his custody as part of his title-deeds.

Mr. CLARE : I use it for the purpose of tying the

Freckletons in with the Harrisons. The suggestion that these documents were all collected by Richard, as a sort of collector of old documents, is not well founded.

The ATTORNEY-GENERAL: I will not press the objection.

Mr. CLARE: Then I put in the original grant of tuition.

Mr. TREVELYAN: What is this?

Mr. CLARE: This is the original grant, with the Bishop's seal upon it.

Mr. TREVELYAN: Of what?

Mr. CLARE: It is the grant of tuition to Isabel.

The ATTORNEY-GENERAL: Where does that come from?

Mr. CLARE: From Miss Bulcock's possession. She is the direct representative of Isabel.

The REGISTRAR: I understand that you put that in evidence?

Mr. CLARE: Yes; I shall have to put Mr. Jeans in the box to show where these things came from.

The next document which is of importance is the will of Henry Freckleton.

Mr. TREVELYAN: Where does that come from?

Mr. CLARE: From the Probate Office. I should ask your Honour to compare and to let the Jury compare the signature to that will with the signature of Henry Freckleton to the release. Then there is the marriage bond. I am told that there is no substantial difference between them.

The VICE-CHANCELLOR: There is a substantial difference in one sense: the man spells his Christian name differently in two cases. That is not very unusual—H-e-n-e-r-y and H-e-n-r-y.

Mr. CLARE: And, curiously enough, it looks as if it was H-o-u-r-y in each case. Gentlemen, you will look at these. I was not aware of that which the Vice-Chancellor has pointed out.

The VICE-CHANCELLOR: I don't suppose there is any doubt about that being Henry Freckleton's will?

Mr. CLARE: It comes from the Probate Office.

The VICE-CHANCELLOR: What about the other two documents?

Mr. CLARE: If my friends do not raise any point about that, I am not going to do so. One is no doubt H-e-n-r-y, and the other H-e-n-e-r-y. My friends, I understand, do not raise any question about that.

The VICE-CHANCELLOR: I do not think there is anything in that point. We know how names are constantly misspelled.

A JUROR: What was the date of Henry's will?

Mr. CLARE: 1728; that is just fifty years after his father's death. His father died in 1678; and my client reminds me that there was a difference of 22 years between his signature to the bond and his signature to the will. My friends raise no question about it; and I think the general characteristics of the writing are pretty much the same.

Now, Thomas Hesketh makes his will dated the 25th January, 1722. At that time he was a widower. His wife had died—we have the certificate—"Isabel, wife of Thomas Hesketh," and it is some time anterior to 1724. I forget at this moment what the exact date is. Thomas Hesketh makes his will; he gives to Margaret Ryley, his daughter, 5/-; to Elizabeth Browne, the daughter of Richard Browne, his executor, £5; to his executors all his real and personal estate in trust, to permit Margaret, his daughter, to dwell in his house at Poulton during her life. Then the will contains directions for maintenance of his grandson Hesketh Ryley. You will see when I come to the Freckleton Pedigree that John and Margaret Ryley had a son, Hesketh Ryley. He also mentions his two grand-daughters, Jane Ryley, and Margaret

Ryley, and makes gifts in favour of them. The inventory of his goods was taken by *Henry Freckleton*, James Smalley, Thomas Freckleton, and *John Ryley*; so that we get Henry Freckleton and John Ryley together.

The ATTORNEY-GENERAL: Walton Freckleton married Betty Smalley.

Mr. CLARE: We have his will, dated 5th March, 1745—that is the will of John Ryley. It is almost impossible to give you these documents in chronological order, because we have to deal with documents relating to other points, so you will pardon me for not giving them to you in the exact order in which they come. John Ryley's will is dated the 5th March, 1745, and the material part of it is this:

“First it is my will and I do hereby charge my estate in Poolton with the payment of all my just debts funeral expences and the probate of this my Will in such manner to be raised and paid of and from my estate as my executors hereinafter named shall think most proper All the rest and residue of my estate or other my effects whatsoever I do hereby give unto my wife Margaret for and dureing all the rest and residue of my title or interest to the same in any wise. Nevertheless I do hereby charge my estate with the payment of five shillings to my son Thomas Ryley and five shillings to my grandson John Ryley son of Edward Ryley deceased and with five shillings to Jane Tompson my daughter and with five shillings to Margaret Parkinson my daughter and with five shillings to Hesketh Ryley my son and with five shillings to Henry Ryley my son.”

There you see you tie the two wills together. The will of Thomas Hesketh, the grandfather, gives something to Hesketh Ryley, his grandson. Then you have John speaking of his wife Margaret, and his daughter, Margaret Parkinson. When you see the certificates you will find that he had all the

children that he speaks of. Then he appoints his wife and Robert Fishwick, of Poulton, his executors. The will was proved on the 1st May, 1761, and he was buried at Poulton 15 years before.

The VICE-CHANCELLOR: What is the date of John Ryley's will?

Mr. CLARE: 5th March, 1745. We have the will. I should say that in all these cases where I am reading wills, we have got the original wills, and are able to produce them in Court. Then comes the will of Margaret Ryley, widow. She makes a gift to her daughter Jane, the wife of Henry Thompson, there again tying that with John Ryley's will. She gives to her daughter Jane certain articles, and to her daughter Margaret 20s. a year for four years. Then she gives certain articles to her son, Henry Ryley; then she directs the remainder of her household and other goods to be sold towards payment of her debts, &c., and then she devises and bequeaths all and every her messuages, cottages, out-housing, gardens, and premises, with their appurtenances, situate and being in Poulton, to her trusty friend, Robert Fishwick, and so on. Then she mentions her children over again, and she appoints Robert Fishwick and Henry Ryley, her son, executors. She was buried on the 7th May, 1753, and her will was proved in June, 1762. It is a curious thing that in that will the draughtsman appears to have spelled the name R-i-l-e-y, and when she comes to sign it she spells it R-y-l-e-y, which was the proper signature.

Mr. TREVELYAN: *Idem sonans.*

Mr. CLARE: Where there is little or no dispute about the pedigrees, that is to say, the Freckleton and the Barton pedigrees, I think the more convenient course is to prove them afterwards.

In addressing you, gentlemen of the Jury, I have dealt at

considerable length with this question about the marriage of Ralph and Isabel. I think the only thing I need add to that—because my friend will be heard to sum up the case to you after the evidence has been disposed of—I think the only matter to which I need call your attention now is the correspondence and documents relating to the unfortunate dispute which arose between John Harrison and Elizabeth Walmsley. Unless my friend wishes it, I do not think that I need go at great length into those documents or into those circumstances. It appears that John Harrison, that is John Harrison the third, who would be a cousin of Henry Freckleton, assuming that our story is true, and who would be a cousin of Margaret Ryley, if our story is true, entered into a contract of marriage with Elizabeth Walmsley, and before the marriage there were certain marriage articles entered into. Apparently shortly after the marriage a dispute arose between the husband and the wife as to whether those articles should or should not be carried out, or if they were carried out, how they were to be carried out. That led to an estrangement, which led to litigation in this very court between the husband and the wife; but ultimately there was a reconciliation, and a deed executed carrying out the terms of the articles upon the basis of the arrangement that had been come to. Now, as I have told you, John Ryley, who had married Margaret Hesketh, interested himself very much apparently in bringing these parties together; and, with his Honour's permission, I will ask my friend Mr. Bradbury to give me a rest now, and to read the letters which passed between John Ryley and Elizabeth Walmsley. If after those letters have been read I have any further observations to make to you before we call our witnesses I will address you again, but I do not think I shall have much more to say to you.



Mr. BRADBURY then read a bundle of old letters, called "the Ryley Letters," which were found amongst hundreds of other old letters and papers in the intestate's possession at his death. The Ryley letters related to the separation which took place between John Harrison (No. 3) and Elizabeth his wife, shortly after their marriage in 1700, and the reconciliation which was ultimately brought about in 1711-12, through the friendly intervention of John Ryley, a cousin by marriage of John Harrison. Some of these letters are very quaint and amusing, and the expression and spelling indicate that the writers were somewhat hazy in orthography. To print the whole of these letters would too much extend the size of this pamphlet. The correct dates of two of the letters were doubtful, one in consequence of there being a hole where part of one figure had been torn away with the seal in opening, and the other in consequence of the imperfect formation of the figure 7, which might be read for either 1 or 7. The date of another of the letters is apparently 1701, but this, from internal evidence, is evidently a mistake for 1710, the writer having reversed the latter figures, as an illiterate person might be easily supposed to have done. These dates gave rise to a question which Mr. Bradbury effectually dealt with in his speech, as will be seen on pp. 146, &c.

After Mr. Bradbury had finished reading the letters, Mr. Clare continued his speech, as follows :—

Mr. CLARE : Gentlemen of the Jury, we have the originals of all these letters here, if any question arises. My friends will

make any points they have to make upon them. I may just draw your attention to one of them ; you will see from the outside of it that it has passed through the post, and it has the old Liverpool postmark upon it. All the letters have not passed through the post, but we have some that have gone through the post.

Now, the only other comment that I have to make upon them is as to the relationship of John Ryley to John and Elizabeth Harrison. I have told you the substantial case that we are going to prove, and, of course, the details of the proof will come hereafter. You will observe in that correspondence that we have John Ryley speaking and writing both to John Harrison and to Elizabeth Harrison as cousin. We have John Harrison writing to John Ryley as cousin. We have Elizabeth Harrison writing to John Ryley as cousin. Under those circumstances, together with all the other circumstances, when you have heard the proofs I think you will have little difficulty in coming to the conclusion that the half-brother of Margaret Ryley (who married this John Ryley) was Henry Freckleton, who was the son of Ralph Freckleton, and that Henry Freckleton and his sister, Margaret Hesketh or Ryley, are two of the three children of Ralph Freckleton and Isabel. My friend Mr. Rotch suggested that there was no evidence whatever that the Heskeths were any relations of the Ryleys and that the Heskeths were any relations of the Harrisons ; but he overlooked the will of Ellen Barton, in which she speaks of her brother-in-law Thomas Hesketh, which could only be by Thomas Hesketh having married Isabel Harrison.

MR. BRADBURY'S SPEECH.

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MAY it please your Honour, Gentlemen of the Jury,—there were three letters, as to which a point has been made. I do not complain of that. Perhaps an error was made in the way in which they were set out in our list of letters; but there are three letters which were referred to, and no doubt, if the point made by the Attorney-General were established, it would be a very serious matter in our case; because, says he, you have three letters, written apparently in 1700-1, which refer to the death of a man which did not take place till 1706, therefore it would be said that that is strong evidence that they are not genuine letters, and they cannot be correct accounts of what took place at the time, because they are stamped with at least error of the grossest kind. There were, as I told you, three letters to which that observation applied. The first letter was one, if you remember, with a hole in it. I do not know whether it was handed to you, but that is the first letter. Undoubtedly it does refer to the death of John Harrison's father, which took place in 1706. Gentlemen, if you look at that letter, although in our list of documents we do say it was written in 1700, it is perfectly clear that it does not contain on the face of it any such date. What it does say is this: There are three figures complete; the fourth figure is not complete. You have 170—, and then the fourth may be anything you like, it may be a six; my suggestion to you is that it has been a six; it is written on the 23rd December, 1706, and you can see clearly for yourselves that this is quite as likely a

figure to have been there as the figure 0, which is suggested by the Attorney-General. Upon the hypothesis that it is an 0 they are discrediting our case, because, say they, that letter was written in 1700. They must show that it was written in 1700, or that it bears that date. If it is doubtful whether it is 1700 or 1706 their case is gone. You will see that there has been a seal at the back of that letter; and that disposes of that letter, I think. The second letter is one on which the person who wrote it has put a date, and the difficulty is as to whether it is written in 1707 or in 1701. I ask you to look at it. Whatever our copy of the letters may say, it is perfectly clear, on inspection of the document, that what is in our copy called a 1, may just as likely—nay, more likely be a 7; because if you look at the 7 before it you will see that the 7 is apparently made in just the same way as the last figure, which I say is a 7. The second figure of the year and the last figure are precisely the same. I challenge any person looking at that letter to say that it is 1701, and not 1707.

The explanation of these two letters appeared at the time they were put in. The third is a letter written apparently on the 11th day of November, 1701. That undoubtedly is the date upon it, and no doubt it does refer to the death of John Harrison's father; but now I think I can prove to you incontestibly that that letter was not written in 1701, but was written in 1710. I will undertake to demonstrate that to you if you will give me your attention for a very few minutes. Now, in the first place, being dated the 11th January, 1701, I will ask you to follow me with a little care while I point out to you what its contents are, because I have got the answer to that letter. I have got what I can demonstrate to you is the answer to that letter; I can prove to you that that answer was written as late as 1710. Then it follows

that the letter to which that was an answer was not written in 1701, because you have any number of letters between the two dates. I can shew you by the answer that it was the last letter written before the answer, and therefore that it was written in 1710. The letter of the 11th November is this.

“Loveing wife, I have reserved your letar but upon the  
“first of Novembar last ”

That is to say, not till the 1st of November last.

“but I see your letar was dated in Aprill so I find  
“your Letar haith been long in coming to my hand  
“but I all most thought you would not a writ any  
“more to me but I desired you that you would a  
“brought a frend alonge with you & a given  
“me a miting and see if we could have  
“Reconcsild materes betwixt us both that  
“we migh a lived as man and wife should do  
“in love and peas together but I see you are  
“not free in that point but I have had som discourse  
“with your frend James Hall and he telleth me  
“that you will in your next Letar give me a full  
“account of what chargis you hath been at since you  
“went and to let me have a fare account from Mr.  
“Ffarinton and when I have seen both accounts to  
“be fare and onast I shall be willing to seall dids  
“persuant to the artickels all was provided that you  
“be free and willing to com and live with me as  
“man and wife should do in love and peas but as  
“for my part I am willing to do that is fare and  
“onast so that I can have onast things don to me  
“but I desir you to consider with yourself to forsack  
“all others that we ma live in love and together but  
“as for my part I am very apt to thinke that [if  
“you had] rele desire or thoughts for me or that  
“wee should [live together] you would not have  
“been so slacke and backward sinnce my father  
“death in coming to live with me I desire you that  
“things may be setteled amonst us that we may live  
“in love and peas together as man and wife should  
“do,” &c.

That letter is the one dated the 11th November, 1701. Now, I have here amongst the letters one from Mrs. Harrison. There is no date to it, but it begins in this way :

“Husband thine I reseved dettd Novebr the 11” (the date of his letter is November 11th) “and do notte  
 “the contents and what thee saes in it and In order  
 “to sattifie thee if possable doo give thee these  
 “lines for I do think it might a sattified aney  
 “resonable person what I ritt last to thee which  
 “was in reallatey and full to the matter for shall  
 “tell thee I had not been so verey backward to given  
 “thee a meeting but as thy one nabours advised  
 “mee agenst it.”

He says to her, You will not give me a meeting. She says, The reason I did not is because your own neighbours advised me against it.

“I am sattified it needs not be aney hindreane to thee  
 “in setteling matters and if thee will indevere to  
 “get matters settled that is seele the deeds and  
 “aloue me what hath gone in my mantanance when  
 “thee hath don this thee may asheure thyselfe of  
 “my company and through the asistance of God  
 “do intend no other but to be a kind and a loving  
 “wife to thee and can forsacke all others.”

He had said in his letter, “Consider with yourself to forsacke all others.” She says, “I forsacke all others.” He goes on to say that he wants an account of her maintenance from Mr. Farington. She says, “And if I may so far preavele with thee to apoint a time and make chouse of soom person with thee to give Ann Ffarinton and another that I may choose the meeting and as to my expences it being now very ny nine years and considering the tosings about being allways afraid of voilant hands being leade on mee and for that reson could not have no seetteled habitation.”

In his letter he had said to her that her friend James Hall had told him that in her next letter she would send him a full account of her expenses to which she had been put since she had left him. See what she says: "And as to my expenses," and then she goes on to give an account, and a very curious account it is—

"And as to my expences it being now very ny nine  
 "years and considering the tosings about being  
 "allways afraid of voilant hands being leade on.  
 "mee and for that reson could not have no seetteled  
 "habitation but for all that have not been.  
 "extravegant in my expences and shall hear tell  
 "what it is its a hundred and fifty pounds it being  
 "soomthing more then sixteen pounds a yeare haveing  
 "keepte an account tho I have had releefe from  
 "persons alltogether Strangers to mee when I was in  
 "want and in distress."

Gentlemen, you see Hall had said to John that in her next letter she would send him an account. Now, she says as for my expenses there have been nine years of them, they have come to nearly £150, and that is the account I want you to pay. Now, she goes on to the Farington account which he mentioned. He says to her, Send me not only your expenses, but let me have a fair account from Mrs. Farington, and when I have seen both accounts I will settle. Then this is very important. She says, "I also note what thou says concerning A. Farrintons accounts and mine and shall tell thee as thou did not find an unfair thing in Hugh Farrintons accounts so I hope thee will find hers to be as fare and thee may take my word for my accounts for thou cannot disprove them for i'l ashuer thee I will not do nothing but what is fare and onist to thee and all persons understand that if accounts is ready if thee

will seall the deeds thee is willing to be discharged and I am desierous that we might live comfortabuly together."

Now, gentlemen, I defy anybody to say that this letter is not in terms an answer to the letter of the 11th November. This correspondence all through contains no letter of the 11th November, except the one dated 1701. Unquestionably this is an answer to that letter. He says: "In your next letter Hall says you are going to send me an account." What follows? That reply is written, saying my expenses are £150. It is NINE years since we separated. We know when she was married—it was in November, 1700. We know that she lived for some time—perhaps about a year—with her husband. That would bring us down to November, 1701; nine years would bring it down to 1710. That is the time when this letter was written. Gentlemen, it is for you to judge; but I do say that that completely disposes of this wonderful mare's nest that has been discovered. I do suggest to you that that letter, being an answer to a letter of November 11th—being clearly and in terms an answer to it, and being written at least three or four years after the father's death, by some mistake John Harrison has put 1701 instead of 1710 on the top of that letter. I do say that it would be a most extraordinary thing if on a correspondence which they do not dare to suggest has been concocted —

Mr. ROTCH: You must not say that.

Mr. BRADBURY: Let them suggest it; we will see what the Jury will say to it. If they suggest to you that this correspondence has been concocted, you will use your sense and see who has done it. Mr. Jeans has told us that twenty years ago he made a memorandum on the back in his handwriting, that he found the papers twenty years ago in that box. Has Mr. Jeans concocted the correspondence? It was there twenty years ago, before any question could possibly arise



as to Isabel Harrison's marriage at all, and before the force or effect of the correspondence could be in any way ascertained as material. If Mr. Jeans did not concoct it, did old Richard Harrison concoct it? It was in the box when he died. Mr. Jeans has sworn that he found it there. For what purpose could the intestate concoct it? There is no earthly purpose that can be suggested. If it is not a concocted correspondence, but a genuine one, then they are driven to this: they will say that it refers to somebody else; that it does not refer to the dispute between the John Harrison and Elizabeth that we have in the pedigree, but it refers to another John Harrison. It is ridiculous; it is preposterous. We have a genuine deed produced from the Duchy—the reconciliation, shewing that there was a reconciliation between this John Harrison and this Elizabeth Harrison, these two very persons. Are there two sets of quarrels in this family? The letters fit in with the deed. Do they want to suggest that there was another quarrel in the generation before, and that this John Harrison was not the man who said that his wife had eloped and got an order of the Court of Chancery? The document in the Court says that his wife had eloped from him, and we have the correspondence fitting into that order of the Court and fitting into the deed at the end of it. Can it refer to anybody else? I can quite understand my friend attacking the correspondence, because I suggest to you that if this correspondence stands there is an end of this case, an absolute end of it; and it seems to me there can be no two opinions about that. I will tell you how it is. You see, we have first of all the will of Ellen Barton. We know who Ellen Barton is. Ellen Barton is the daughter of John and Margery Harrison.

The ATTORNEY-GENERAL: Do not give evidence.

Mr. BRADBURY: Allow me.

**THE ATTORNEY-GENERAL:** The evil of this speech is that you are raising all kinds of issues which we are not going to raise.

**MR. BRADBURY:** I was going to identify these two, Mr. Attorney-General.

**THE VICE-CHANCELLOR:** As to the correspondence, it has certainly been alleged that the whole thing is a forgery, and the ground upon which that allegation might rest—I do not say did rest—was the discovery of this discrepancy of dates. I think, therefore, as that had not been discovered till after Mr. Clare's opening, it is essential to call the attention of the Jury to the circumstances which may explain that. However, Mr. Bradbury, you do not wish to take up more time than is right.

**MR. CLARE:** Mr. Bradbury only wants to point out something else, which it would be only fair to the other side to point out. If they do not want it, he will not do so.

**MR. BRADBURY:** There is abundance of evidence to identify the Bartons of Woodplumpton with those of Lea.

**THE VICE-CHANCELLOR:** That is quite right.

**MR. CLARE:** We will do it in reply after my friends have had their say, if they like, or we will do it now.

**THE ATTORNEY-GENERAL:** I should like it done now.

**THE VICE-CHANCELLOR:** It explains the case to the Jury to do it now.

**MR. BRADBURY:** I think I shall satisfy you, gentlemen, that we do make out satisfactorily the identity of Ellen and Henry Barton of Lea with the Henry and Ellen Barton of Woodplumpton. First of all, we have the mother's will, dated in May, 1672, in which she mentions her daughter, the wife of Henry Barton. Then we have the certificate of the marriage of Henry Barton, of Lea, and Ellen Harrison, of Lea, in October, 1671. We have next that they had a child,

Elizabeth, and we know that in two ways. First of all, we have a certificate of the birth of a child Elizabeth, dated 16th December, 1672—"Elizabeth, daughter of Henry Barton, of Lea." Then we have William's will. William was the brother. William, in his will, mentions "Elizabeth, the daughter of Henry Barton, of Lea." So we establish this: that Henry and Ellen of Lea had a daughter who was apparently the eldest daughter, named Elizabeth. She must have been the eldest daughter presumptively, because they were only married in October, 1671, and the birth of that daughter was in December, 1672, and the will of William Harrison is dated February, 1674, which was before the birth of the second child, namely, March, 1674. They had a second child then, because he is baptized "William, son of Henry Barton, of Lea." We have, therefore, this state of things: we know that in 1674 Henry and Ellen were living at Lea, and had two children, the eldest Elizabeth, the second William. Then Mr. Jeans told us that, so far as his researches have gone, he has not been able to find any trace of Henry and Ellen Barton of Lea and their children after that date; that is to say, he does not find them under that name—they do not exist—they are not there. But the earth did not open and swallow them up! Nobody suggests that, I suppose. If they are not there they are somewhere else.

The ATTORNEY-GENERAL: Are you going to prove that they are found at Woodplumpton?

Mr. BRADBURY: I think I can satisfy you.

The VICE-CHANCELLOR: The whole of Mr. Bradbury's observations go to that.

Mr. BRADBURY: I think I can satisfy you; I hope so. I am going to say this, gentlemen: You have got them living at Lea down to 1674. They disappeared from Lea. There is no further trace of them, so far as our researches go. But

surely it is not an unknown thing for a person to change his residence, and go a little more than a mile off, to Catforth and Woodplumpton? It is not an impossible thing to change a residence; and when you find, as we do in 1715, a family identical living at Woodplumpton, a mile away—when you find a family disappearing from Lea in 1674 and you find a similar family in every respect, as I will shew you, living a little later on at Woodplumpton, is it too much to ask a Jury to jump over the wonderful chasm and say that they had changed their residence and removed a mile away to Woodplumpton? They seem to expect us to call the carter who shifted the furniture from one place to the other. They say that it is ridiculous to suppose that because they have disappeared from Lea and we find them at Woodplumpton that they can be the same family. In July, 1715, you have the will of Henry Barton of Woodplumpton. Now our Henry Barton was married in 1672. This is 43 years after his marriage; therefore, our Henry would be presumably between 60 and 70 years of age, and not at all an unlikely time for a man to make his will. According to his will he has got a wife Ellen—that is the first step—and he has three children. What are the names of his children? The eldest is Elizabeth. Elizabeth was the eldest child of Henry Barton of Lea. He has a son William. William was the name of a son, and the only son of Henry Barton of Lea. But we find he has three children, therefore they might say it is not the same family; there were only two at Lea, Elizabeth and William, and where do you get the third from? I will tell you. We have now James Harrison's will. James Harrison was the brother of Ellen. The two children are grown into three. This is the will of James Harrison of Lea, wheelwright, son of John, and it is dated 1691, and there they are described; but it does not say whether of Lea or of Woodplumpton. He bequeaths one-

third to his brother Lawrence, a second third to his sister Ellen's three children, and to his sister Isabel's three children another third. You find that Ellen's three children are named Elizabeth, William, and Margery, the last one being named after her grandmother. Therefore, we see this, that not only have they three children, but they have three children of the same age as they would be if they were the children of the Henry and the Ellen we know. You know that in 1672 Elizabeth was born; in 1715 she would have been 43 years of age. Then what do we find? We find that the Elizabeth is a person of this very age, and so with the three of them, because they are all three married and have all three got children. Forty-three would be the age of the eldest, 41 would be the age of the second, and what the age of the third is we do not know, we have not the date of her birth. If you will look at Henry Barton's will, you will find that all his children are married, and that they have all of them got children. That appears still more clearly if you look at Ellen Barton's will, because you find that in her will she mentions a number of grandchildren. She gives their names, and gives them in the same order; that is to say, she has a son William, she makes a gift to her daughter Elizabeth, the eldest presumably, because she is the first named in the will, and she makes a gift to Margery, her other daughter. So you have William, Elizabeth, and Margery—all married as they would be, because they were born at least 40 years before the date of the will, that is before 1715, because Ellen Barton's will was proved in 1719, so they would be a little older then. She says, "I give and bequeath to William Barton my son"—that is the fellow that was born and christened in 1674. Then she gives to William Smith and John Warbrick, her sons-in-law, certain things—proving that her two daughters were married. She gives all the rest to Elizabeth Warbrick and Margery

Smith, "my two daughters." There you have Elizabeth and Margery. Then she goes on to show that these must be children of mature age, because she gives to two of the children of William an annuity of £1, namely, to Ellen Barton his daughter, 10s., and to Henry Barton his son, 10s. That shows that William had two children, Ellen and Henry. She also speaks of the children of Elizabeth Warbrick. I submit that you have the family identified. What could you have more? It seems to me that it is impossible that you could have further evidence, unless we could actually call the man who saw them move from Lea to Woodplumpton. I do not see how you could have more conclusive evidence of identity than that which we have given.

Gentlemen, there is more than that, but while I am upon that I may as well make another observation, to prove that there was a connection between the Bartons and the Harrisons of Lea—the Bartons of Woodplumpton that is and the Harrisons of Lea. You have the evidence that there was found in the possession of the intestate a lot of old documents which had come down to him presumably from his ancestors—from John Harrison and ancestors antecedent. You find that some of these documents are documents relating to the Bartons; for example, there is the document of 1673. That is one which would come down in this way: the documents relate to the Barton family—the Bartons of Woodplumpton, and they come down to Harrison of Lea. You know that it is impossible in pedigree cases to prove things as you would in a criminal case—beyond doubt—you cannot do it. The question for the Jury, I take it, in all these cases is, whether there is reasonable evidence, taking the whole case, from which they can as reasonable men draw the fair inference that such and such a thing happened. How you can have stronger evidence, or at least evidence of a better

kind than that, I am really at a loss to see. If you as reasonable men come to the conclusion that reasonable identity is made out, that gets over the difficulty which has been raised in the case.

The VICE-CHANCELLOR: There is one other observation, which should not be passed over with reference to the letters: it is this, that it would be for you on your part, and the Jury would consider it, assuming for the moment that these documents are genuine, there is a further, almost impossible difficulty in suggesting that they relate to other persons, by reason of the connection of John Ryley as a cousin of John Harrison, who could only be a cousin of John Harrison through the marriage with Margaret, the daughter of Isabel, the child of Margery Brown.

Mr. CLARE: The Thomas Ryley who is mentioned in that letter is a party to the reconciliation deed.

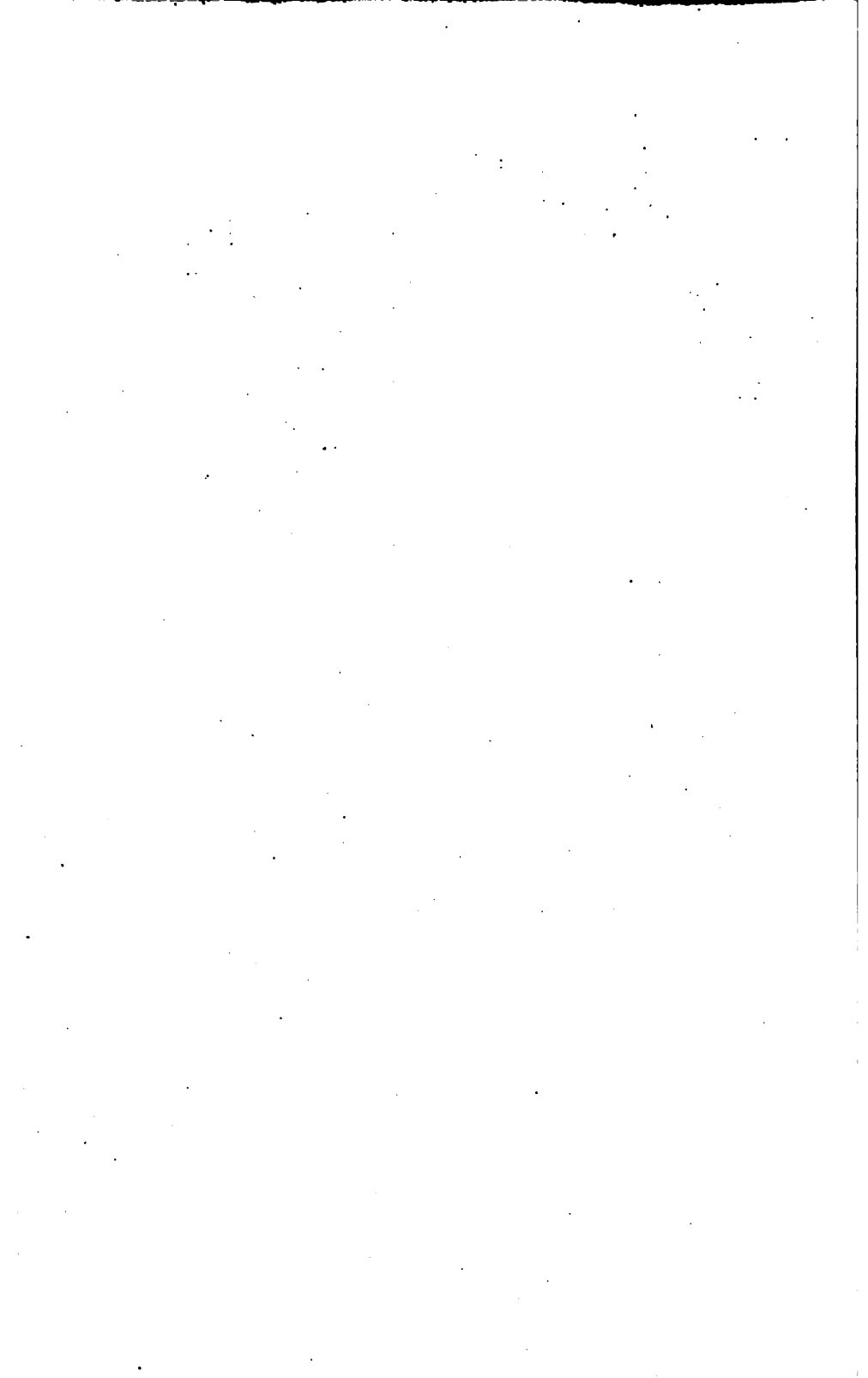
The VICE-CHANCELLOR: That is so. But the John Ryley who takes the trouble to intervene as a cousin can only be brought on the scene as cousin through his marriage with Margaret, who was a child of Isabel, who was a sister of Ellen and sister of John.

Mr. BRADBURY, I should like to say a word to the Jury with reference to what I consider to be the almost incontrovertible force of that will of Ellen Barton. Ellen Barton says, in effect, Thomas Hesketh is my brother-in-law. How could he be her brother-in-law? His name is Hesketh. Her husband's name is Barton; her name is Barton after her husband. He could only be her brother-in-law through his marrying her sister or she marrying his brother. Either Hesketh married her sister or she married Hesketh's brother. She did not marry Hesketh's brother, because her name is Barton. He could only be her brother-in-law from the fact that Hesketh married her sister. What sister? She only

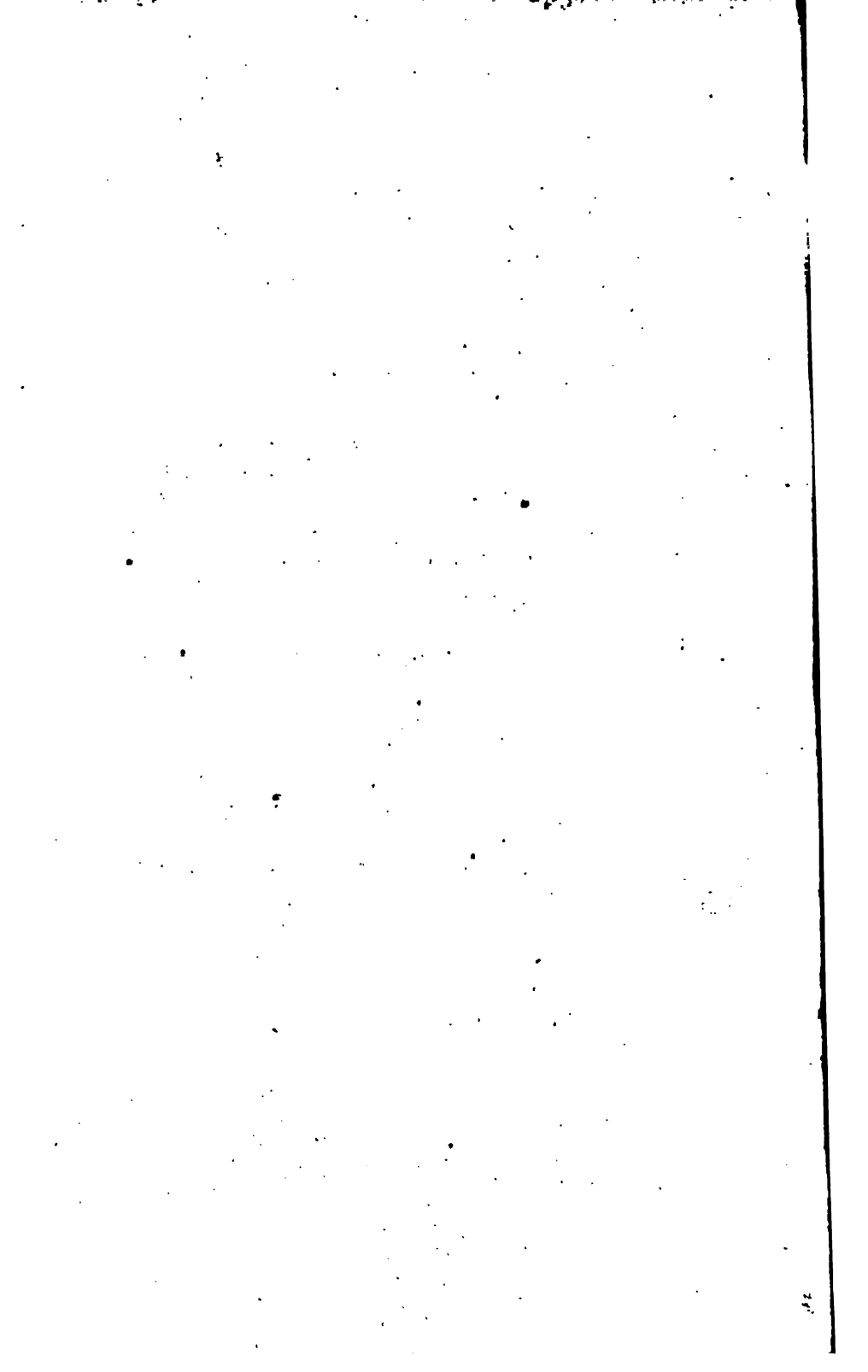
had one sister ; we have never heard of another but Isabel. He married Isabel. We know that he, Thomas Hesketh, had an only daughter, Margaret. We know that from his will. We know that that Margaret married John Ryley. We have, therefore, this : that John Ryley is married to Margaret, who is the daughter of Isabel. Then we have this statement in a letter. John Ryley says "I married Henry Freckleton's sister Margaret." Remember those are the exact words. Who did he marry ? He married Margaret Hesketh, therefore Margaret Hesketh was Henry Freckleton's sister. Sister of the whole blood ? Certainly not, because they are not of the same name ; they could not be. She is his sister, not of the same blood, but half blood—one is named Hesketh, the other is a Freckleton. If they were brother and sister of the half blood how could it be except that they had the same mother ? Therefore, you have Henry Freckleton and Margaret Ryley by the same mother. We know who Margaret Ryley's mother was—it was Isabel ; we know from the wills that Margaret Ryley's mother was Isabel, therefore Henry Freckleton's mother was Isabel. If Henry Freckleton's mother was Isabel, his father married Isabel—Ralph Freckleton married Isabel.

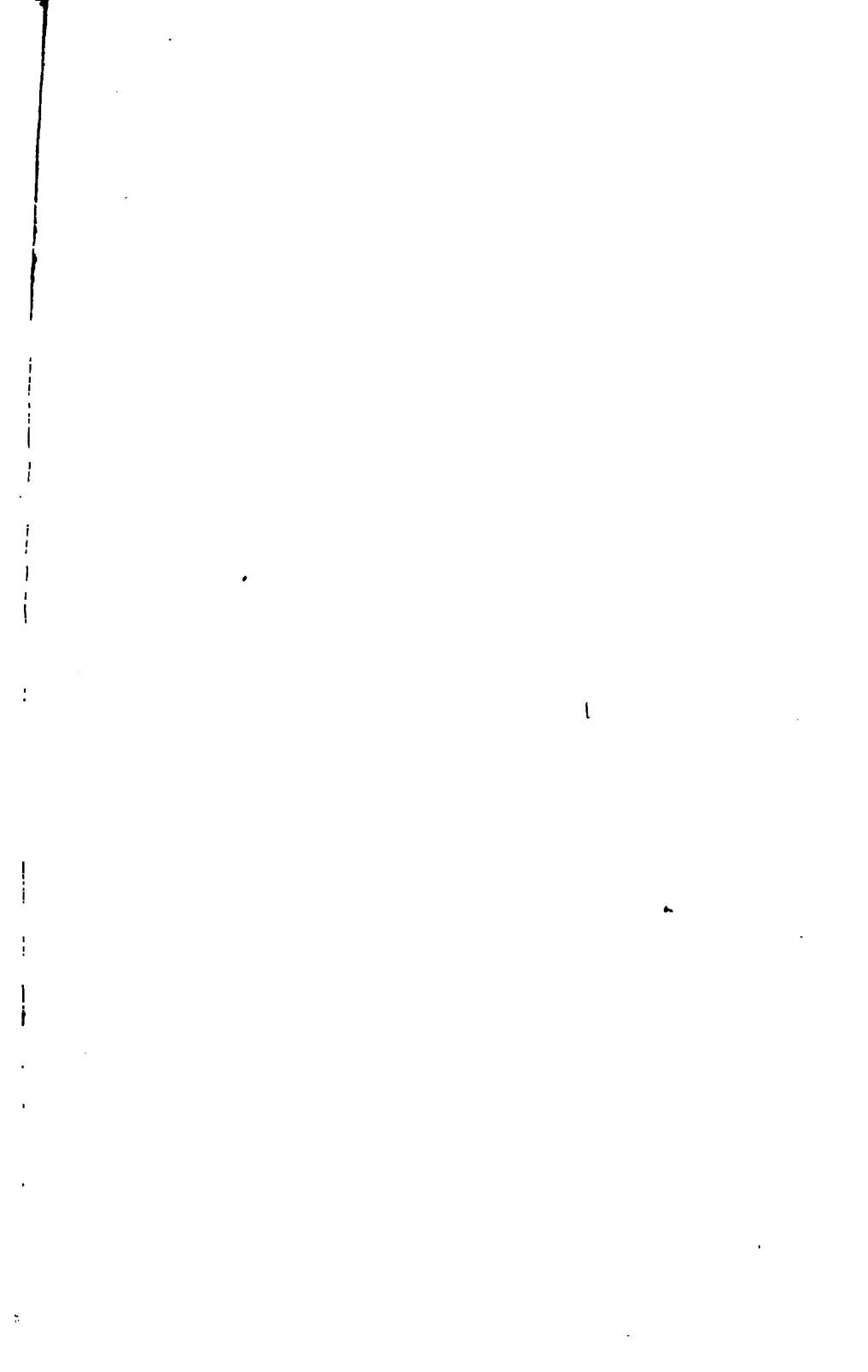
Gentlemen, that is the whole case. I submit to the other side that that is a chain of reasoning that they cannot get over ; there is not a flaw in it, and there is no chance of a flaw. If that be so it establishes our case.













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